

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the City of Petaluma for an order authorizing the permanent relocation of one at-grade crossing of the tracks of the Sonoma-Marín Area Rail Transit District.

Application 12-03-027  
(Filed March 30, 2012;  
Amended October 31, 2012  
and January 29, 2013)

**DECISION GRANTING AUTHORIZATION TO THE CITY OF PETALUMA FOR CONTINUED USE AND MODIFICATION OF AN AT-GRADE HIGHWAY-RAIL CROSSING ACROSS CAULFIELD LANE IN THE CITY OF PETALUMA, COUNTY OF SONOMA**

**Summary**

This decision grants the City of Petaluma authorization for continued use and the modification of the Caulfield Lane crossing over tracks owned by Sonoma-Marín Area Rail Transit in the City of Petaluma in Sonoma County. The crossing is identified as CPUC Crossing No. 005-37.80.

**Discussion**

On June 24, 2004, the City of Petaluma (City) filed Application (A.) 04-06-030 for approval to close the existing at-grade crossing at Hopper Street (CPUC Crossing No. 005-38.30) and construct a new at-grade crossing at Caulfield Lane in the City.

Decision (D.) 06-02-036, as modified by D.09-06-007, authorized the City to relocate the at-grade mainline track crossing of the Sonoma-Marín Area

Rail Transit District (SMART)<sup>1</sup> railroad tracks from its then current location at Hopper Street, to Caulfield Lane, according to the design and the safety-related conditions referenced in D.06-02-036. D.09-06-007 clarified that the nearby, but separate, at-grade industrial lead track crossing is not affected but is to remain open to provide access to several businesses.

The authority for the at-grade mainline track crossing applied only to freight traffic. No passenger rail service runs along the track at present.

Ordering Paragraph 2 of D.06-02-036 expressly limits the authority granted to the City:

Petaluma's authorization continues as long as no passenger rail service operates along the SMART tracks. This authorization shall expire in the event that passenger rail service initiates along the SMART tracks. In the event passenger rail service commences along the SMART railroad tracks, Petaluma shall apply to the Commission for continued authorization of this at-grade crossing. Any such new application shall be complete (including but not limited to compliance with appropriate environmental review). Provided that Petaluma files such a new application within 90 days after it is announced that passenger rail service shall commence along the SMART tracks, Petaluma may include in this application a request for interim relief that would continue the authorization granted in this decision while the new application is pending.

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<sup>1</sup> SMART, established on January 1, 2003, following passage of AB 2224 (Stats. 2002, ch. 341 [Nation]) is a regional transportation district charged to oversee the development and implementation of passenger rail service in Sonoma and Marin Counties.

On March 16, 2007, before D.09-06-007 was issued, the City filed a Second Petition to Modify D.06-02-036 (Second Petition). The Second Petition sought a 90-day extension of time to file the new application contemplated by Ordering Paragraph 2 of D.06-02-036. On June 15, 2009, the City filed an Amendment to the Second Petition (Amendment); the Amendment requests a filing extension to December 31, 2010. D.09-09-008, dated September 10, 2009, addressed the Amendment and gave the City until December 31, 2010, to file the new application. On December 22, 2010, the City requested and was given an extension of time to December 31, 2011, to comply with D.09-09-008.

On December 28, 2011, the City requested a 90-day filing extension so it could address comments made by Commission staff to the City's Mitigated Negative Declaration (MND), making the new deadline to file March 30, 2012.

In response to comments to the City's MND, on February 2, 2012, a diagnostic review was held that included representatives of Commission staff, the City, SMART and the Northwestern Pacific Railroad (NWP), to determine if upgrades to the Caulfield Lane crossing were required prior to SMART beginning rail operations. Consensus at the meeting was that upgrades would be required for the crossing to be considered adequate for high-speed passenger trains. The required upgrades amounted to the addition of a Commission Standard 9-E (flashing light signal assembly with automatic gate installed on the departure side of the at-grade crossing, also known as an exit gate) which includes vehicle detection loops, in the westbound direction.

On March 30, 2012, the City filed A.12-03-027. A review by Commission staff found the application incomplete. The application did not include provisions for implementing the required upgrades that stemmed from the February 2, 2012 diagnostic review. The City's application merely alluded to the

needed improvements, suggested they occur at some unspecified point in the future, and did not include final design drawings or plans for construction for the recommended upgrades, a necessary requirement under D.06-02-036. On May 12, 2012, the application was suspended by the Examiner's Ruling. The Ruling directed the City to amend its application to include final design drawings or plans for construction for the recommended upgrades. The amended application was to be filed no later than October 31, 2012.

On October 31, 2012, the City filed an amendment (Amendment 1) to A.12-03-027. Amendment 1 clarified that the City is responsible for the upgrades at Caulfield Lane as determined in the February 2, 2012 diagnostic meeting and incorporated drawings and specifications for such upgrades.

On January 29, 2013, the City filed a second amendment (Amendment 2) to A.12-03-027. In addition to the requirements of D.06-02-036 and Amendment 1, Amendment 2 proposes to subject the City to the additional condition that should the City propose future construction of a bridge over the Petaluma River that would connect to Caulfield Lane, the City would, as part of the California Environmental Quality Act review for the bridge, include impacts from the construction of the bridge and subsequent reconfiguration of the three-way intersection of Hopper Street and Caulfield Lane to a four-lane intersection on the existing crossing. At that time, a new diagnostic review of the crossing would be held that would include Commission staff, City personnel, SMART, and a representative of any other railroad that is operating over the crossing. The City would then submit a formal application to the Commission for continued authorization for the crossing at Caulfield Lane. The new application would contain all required elements for an application for a public road at-grade crossing of a railroad as specified in the Commission's Rules of Practice and

Procedure. All exhibits submitted by the City in connection with A.12-03-027 and Amendment 1 are incorporated into Amendment 2.

The Caulfield Lane crossing is a two-track crossing located approximately 20 feet east of where Caulfield Lane forms a three-way, T intersection with Hopper Street, which runs north/south on the west side of the tracks. Traffic in both directions on Hopper Street is directed to stop at the Caulfield Lane intersection. Traffic on westbound Caulfield Lane is unrestricted through the intersection. Current warning devices at the crossing consist of one Commission Standard 9-A (flashing light signal assembly with automatic gate arm and additional flashing light signals over the roadway on a cantilevered arm) warning device westbound and two Standard 9 (flashing light signal assembly with automatic gate arm) warning devices eastbound, one each on the median and curb.

For continued operation of the Caulfield Lane crossing, in addition to the existing warning devices, the City proposes to equip the crossing with a Commission Standard 9-E exit gate warning device with vehicle detection loops for westbound traffic. The proposed improvement is in accordance with the recommendations of the diagnostic team meeting, including Commission staff.

Rail service at this crossing is currently 6 NWP freight trains per week at a maximum speed of 25 mph. SMART passenger service is forecast to begin in late 2015 or early 2016 with approximately 28 passenger trains per day at a maximum speed of 79 mph.

### **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 has the exclusive authority to approve the project pursuant to Section 1202 of 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 either the public agency that carries out the project,<sup>2</sup> or the one with the greatest responsibility for supervising or approving the project as a whole.<sup>3</sup> Here, the City is the lead agency for this project because the project is being constructed by it and is subject to its review and approval. 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.<sup>4</sup> 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.<sup>5</sup>

On November 17, 2011, the City circulated the initial study and proposed MND for the project. The MND was adopted by the City on December 19, 2011.

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<sup>2</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

<sup>3</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

<sup>4</sup> CEQA Guidelines, Sections 15050(b) and 15096.

<sup>5</sup> CEQA Guideline Section 15096(g).

On January 3, 2012, the City filed a Notice of Determination (NOD) with the County of Sonoma which states, "The project results in the continued operation of an existing at-grade rail road crossing and does not involve any physical change in the environment. ...There is no substantial evidence that the Project as mitigated will have a significant effect on the environment." A Mitigation Monitoring and Reporting Program was adopted. All mitigation measures contained therein will be conditions of the approval of the project.

With respect to the crossing work requested in this application, a potential future cumulative impact was identified in the MND. Three projects were identified that may have overlapping impacts with the project's impacts. SMART passenger rail service, Riverfront mixed use development, and the City's 2025 General Plan Buildout. This potential cumulative impact is mitigated by the requirement set forth in Amendment 2 as described above. As such the Commission makes the following findings pursuant to CEQA Guideline Section 1596(h).

The Commission reviewed and considered the City's MND and NOD, as they relate to this crossing and finds them adequate for our decision-making purposes.

### **Filing Requirements and Staff Recommendations**

This application is in compliance with the Commission's filing requirements including Rule 3.7 of the Rules of Practice and Procedure, which relates to the construction of a public road across a railroad.

The Commission's Safety and Enforcement Division - Rail Crossings Engineering Section has inspected the site of the proposed crossing, and has reviewed and analyzed the plans submitted with the application, and

recommends that the requested authority for continued use and the modification of the subject crossing be granted for a period of three years. The continued use should be predicated upon completion of the proposed improvements to the crossing prior to any passenger trains operating over the crossing. Additionally, the approval should be conditioned upon the City's proposed requirement to study impacts to the crossing during any CEQA review for construction of any roadway bridge over the Petaluma River that connects to Caulfield Lane.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3292, dated April 19, 2012, the Commission preliminarily categorized this application as ratesetting and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, it is not necessary to disturb the preliminary determinations.

### **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 J. Hagan III is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on April 19, 2012. Amendments to the application were published in

the Commission's Daily Calendar on November 19, 2012 and February 15, 2013.

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, for continued use and the modification of the Caulfield Lane crossing in the City, Sonoma County.

3. The City is the lead agency for this project under CEQA. On December 19, 2011, the City adopted the MND for the project.

4. On January 3, 2012, the City filed a NOD with the County of Sonoma which states, "The project results in the continued operation of an existing at-grade rail road crossing and does not involve any physical change in the environment. ...There is no substantial evidence that the Project as mitigated will have a significant effect on the environment."

5. With respect to the crossing work requested in this application, a potential future cumulative impact was identified in the MND.

6. This potential future cumulative impact is mitigated by the requirement that should the City propose future construction of a bridge over the Petaluma River that would connect to Caulfield Lane, the City shall, as part of the California Environmental Quality Act review for the bridge, include a study of impacts that the construction of the bridge and subsequent reconfiguration of the three-way intersection of Hopper Street and Caulfield Lane to a four-lane intersection would have on the existing crossing.

7. If and when the City proposed future construction of a Petaluma River bridge that would connect to Caulfield Lane, a new diagnostic review of the crossing would be held that would include Commission staff, City personnel, SMART, and a representative of any other railroad that is operating over the

crossing. The City would then submit a formal application to the Commission for continued authorization for the crossing at Caulfield Lane.

8. With these mitigation measures the potential cumulative impact is less than significant.

9. A Mitigation Monitoring and Reporting Program was adopted. All mitigation measures contained therein will be conditions of the approval of the project. There were no immitigable impacts identified that are related to the areas of Commission jurisdiction.

10. The Commission is a responsible agency for this Project and has reviewed and considered the City's MND and NOD as they relate to this crossing.

11. The MND and NOD reflect the Commission's independent judgment and analysis.

### **Conclusions of Law**

1. The City's MND and NOD are adequate for our decision-making purposes.

2. The City's MND and NOD were completed in compliance with CEQA.

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

4. 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 Petaluma is authorized continued use and the modification of the Caulfield Lane at-grade highway-rail crossing, identified as CPUC Crossing No. 005-37.80, in the City of Petaluma, Sonoma County subject to the conditions noted below.

2. The Caulfield Lane at-grade highway-rail crossing shall be equipped with a California Public Utilities Commission Standard 9-E exit gate warning device with vehicle detection loops for westbound traffic as described above and specified in the application and attachments.

3. Should the City of Petaluma propose future construction of a bridge over the Petaluma River that would connect to Caulfield Lane, the City of Petaluma shall, as part of the California Environmental Quality Act review for the bridge, include a study of impacts that the construction of the bridge and subsequent reconfiguration of the three-way intersection of Hopper Street and Caulfield Lane to a four-lane intersection would have on the existing crossing.

4. If the circumstances outlined in Ordering Paragraph No. 3 above occur, at that time, a new diagnostic review of the crossing shall be held that shall include California Public Utilities Commission staff, City of Petaluma personnel, Sonoma-Marín Area Rail Transit, and a representative of any other railroad that is operating over the crossing.

5. If the City of Petaluma seeks to construct the bridge mentioned in Ordering Paragraph No. 3 above, the City of Petaluma shall then submit a formal application to the California Public Utilities Commission for continued authorization for the crossing at Caulfield Lane. The new application shall contain all required elements for an application for a public road at-grade

crossing of a railroad as specified in the California Public Utilities Commission's Rules of Practice and Procedure.

6. The City of Petaluma shall notify the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Section at least five (5) business days prior to placing the additional Commission 9-E warning device in-service at the Caulfield Lane at-grade highway-rail crossing. Notification shall be made to [rces@cpuc.ca.gov](mailto:rces@cpuc.ca.gov)

7. Within thirty (30) days after completion of the work under this order, the City of Petaluma shall notify the California Public Utilities Commission's Safety and Enforcement Division - Rail Crossings Engineering Section in writing, by submitting a completed Commission Standard Form G (*Report of Changes at Highway Grade Crossings and Separations*), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at <http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formg.htm>. This report may be submitted electronically to [rces@cpuc.ca.gov](mailto:rces@cpuc.ca.gov) as outlined on the web page.

8. Within 30 days after completion of the work under this order, Sonoma-Marín Area Rail Transit District shall notify the Federal Railroad Administration of the changes to the crossing by submitting a U.S.DOT CROSSING INVENTORY FORM, form FRA F6180.71. A copy shall be provided concurrently to the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Section. This copy of the form may be submitted electronically to [rces@cpuc.ca.gov](mailto:rces@cpuc.ca.gov) .

9. The City of Petaluma shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

10. This authorization shall expire if not exercised within three (3) years of the effective date of this decision, unless time is extended or if the above conditions are not satisfied. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so require.

11. A request for extension of the three-year authorization period must be submitted to the California Public Utilities Commission's Safety and Enforcement Division - Rail Crossings Engineering Section at least thirty (30) days before the expiration of that period. A copy of the request must be sent to all interested parties.

12. The application is granted as set forth above.

13. Application 12-03-027 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.