

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Sacramento for an order authorizing the construction of pedestrian overcrossing structure to connect the Sacramento City College light rail station to the adjacent neighborhood. The proposed pedestrian overcrossing is approximately 950 feet to the north of Sutterville Road located in the County of Sacramento, State of California.

Application 13-03-018
(Filed March 5, 2013;
amended May 8, 2013)

DECISION GRANTING AUTHORIZATION TO THE CITY OF SACRAMENTO TO CONSTRUCT A GRADE-SEPARATED PEDESTRIAN STRUCTURE OVER SEVEN TRACKS OWNED BY UNION PACIFIC RAILROAD COMPANY AND TWO TRACKS OWNED BY SACRAMENTO REGIONAL TRANSIT DISTRICT IN THE CITY OF SACRAMENTO, COUNTY OF SACRAMENTO

Summary

This decision grants the City of Sacramento authorization to construct a new grade-separated pedestrian-rail crossing overhead structure over seven tracks owned by the Union Pacific Railroad Company and two tracks owned by the Sacramento Regional Transit District in the City of Sacramento, in Sacramento County. The crossing will be identified as CPUC Crossing Nos. 004-136.22-A for Union Pacific Railroad Company and 083S-3.11-A for Sacramento Regional Transit District.

Discussion

The City of Sacramento (City) requests authority to construct a new grade-separated pedestrian-rail crossing overhead structure that will span over seven tracks owned by the Union Pacific Railroad Company (UPRR) and two tracks

owned by the Sacramento Regional Transit District (SRTD) in the City, Sacramento County. This new overhead structure will carry pedestrians and bicycle traffic between the Sacramento City College (SCC) SRTD light rail station and the Curtis Park neighborhood by means of a steel tier-arch bridge spanning the UPRR/SRTD right-of-way and multi-span, cast in place concrete approach structures. The City states that the crossing will improve accessibility and safety for pedestrian and bicycle travel between the SCC SRTD light rail station, the adjacent Curtis Park neighborhood and the future Curtis Park Village which anticipates building over 500 new homes with 200,000 square feet of retail space.

The grade-separated pedestrian-rail crossing overhead structure will be 174-feet long and 12 feet wide, and span over seven tracks of the UPRR and two tracks of SRTD. The crossing will be identified as CPUC Crossing Nos. 004-136.22-A for UPRR and 083S-3.11-A for SRTD. There will be a permanent minimum overhead clearance of 24 feet, 9 inches for existing track and 24 feet, 2 inches for future track. The steel tiered arch and pre-cast drop-in span structure elements are prefabricated and thus require no falsework for construction. Current rail operations at the project location consist of 135 light rail trains per day at a maximum speed of 55 mph and approximately 13 freight trains per day at a maximum speed of 40 mph.

On May 8, 2013, the City filed an amendment to its application to clarify the type of structure going over the UPRR/SRTD rights-of-way and to show some minor changes of the proposed fencing across the right-of-way.

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 California Public Utilities Commission (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,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² 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, 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 must make findings regarding each significant effect of the project components under its jurisdiction; such findings shall include relevant mitigation measures.⁴

In July 2009, the City issued the Initial Study/Mitigated Negative Declaration (IS/MND) for the project. On January 12, 2010, the City filed a

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 Guidelines, Section 15096(h).

Notice of Determination (NOD) with the State Clearinghouse which states, "The Project will not have a significant effect on the environment. A Negative Declaration was prepared for the project. Mitigation measures were adopted as a condition of approval of the project."

The new grade-separated pedestrian-rail crossing overhead structure resulted in potential impacts in the areas of: aesthetics; hazardous materials; cultural resources; noise; and, certain CEQA mandatory findings of significance. All impacts can be mitigated to less-than-significant levels.

Regarding aesthetics the project has the potential impacts of: (1) a degradation of the visual character of the site; and, (2) the creation of a new source of substantial light or glare. The first impact is mitigated by: (1) the storage of construction materials away from highly-visible areas; (2) facing construction lighting downward and; (3) using soft visual design features; and, the incorporation of design features that are consistent with Sacramento City policies. The second aesthetic impact is mitigated using anti-reflective coating on surfaces.

Regarding cultural resources, the project has the potential impacts of: (1) an impact to an archaeological resource; and, (2) the destruction of a unique paleontological or geological feature. Both impacts are mitigated by: the stopping of construction and notification of the City and an archaeologist should an unanticipated resource be discovered.

Regarding hazardous materials, the project has the potential impacts of: (1) the release of hazardous materials due to a reasonably foreseeable accident; (2) creation of hazardous emissions near a school; and, (3) its location is on a listed hazardous materials site. The first and second impacts are mitigated by: (1) locating fueling activities in staging areas; (2) identification of existing gas

pipelines in the area prior to construction; and, (3) proper removal of any PCB contaminated electrical transformers. The third impact is mitigated by: (1) prior to construction an investigation for constituents of concern and remediation plan shall be done; (2) soil sampling shall be done and if constituents of concern and if found disposal rules shall be followed.

Regarding noise, the project has the potential impacts of: (1) exceeding the local noise ordinance; (2) excessive ground vibrations; and, (3) a temporary increase in ambient noise levels. These impacts are mitigated by: (1) limiting of construction hours; and, (2) the use of mufflers on equipment and placing staging areas away from residences.

Lastly, the IS/MND found that certain CEQA mandatory findings of significance had the potential for significant impacts, namely: (1) the degradation of examples of California history and adverse effects on human beings. Both of these impacts are mitigated by the measure identified above.

Staff believes that the mitigations are reasonable and feasible.

On May 26, 2010, the City filed a Categorical Exemption/Categorical Exclusion Determination (CE/CED) Form. Caltrans is the lead agency under National Environmental Policy Act (NEPA). The Caltrans NEPA Determination states that this project falls within a Categorical Exclusion under 23 CFR 771.117(c): activity (c)(3) and 23 CFR 771.117(d): activity (d).

The Commission reviewed and considered the City's IS/MND, NOD and CE/CED as they relate to this grade-separated pedestrian-rail crossing overhead structure 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, Office of Rail Safety - Rail Crossings Engineering Section has inspected the site of the proposed crossing, reviewed and analyzed the plans submitted with the application, and recommends that the requested authority to construct the subject grade-separated pedestrian-rail crossing overhead structure be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3312, dated April 4, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. An amendment to this application was filed on May 8, 2013, and published in the Commission's Daily Calendar on May 23, 2013, regarding minor changes in the description of the structure. 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 March 29, 2013. An amendment to the application was published in the Commission's Daily Calendar on May 23, 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, to construct a new grade-separated pedestrian-rail crossing overhead structure that will span over seven tracks owned by the UPRR and two tracks owned by the SRTD in the City of Sacramento in Sacramento County. The crossing will be identified as CPUC Crossing Nos. 004-136.22-A for UPRR and 083S-3.11-A for SRTD.

3. The City is the lead agency for this project under CEQA.

4. In July 2009, the City issued the IS/MND for the project.

5. On January 12, 2010, the City filed a NOD with the State Clearinghouse which states, "The Project will not have a significant effect on the environment. A Negative Declaration was prepared for the project. Mitigation measures were adopted as a condition of approval of the project."

6. The new grade-separated pedestrian-rail crossing overhead structure resulted in potential impacts in the areas of: aesthetics; hazardous materials; cultural resources; noise; and, certain CEQA mandatory findings of significance. All impacts can be mitigated to less-than-significant levels.

7. Regarding aesthetics, the project has the potential impacts of: (1) a degradation of the visual character of the site; and, (2) the creation of a new

source of substantial light or glare. The first impact is mitigated by: (1) the storage of construction materials away from highly-visible areas; (2) facing construction lighting downward and; (3) using soft visual design features; and, the incorporation of design features that are consistent with Sacramento City policies. The second aesthetic impact is mitigated using anti-reflective coating on surfaces.

8. Regarding cultural resources, the project has the potential impacts of: (1) an impact to an archaeological resource; and, (2) the destruction of a unique paleontological or geological feature. Both impacts are mitigated by: the stopping of construction and notification of the City and an archaeologist, should an unanticipated resource be discovered.

9. Regarding hazardous materials, the project has the potential impacts of: (1) the release of hazardous materials due to a reasonably foreseeable accident; (2) creation of hazardous emissions near a school; and, (3) its location is on a listed hazardous materials site. The first and second impacts are mitigated by: (1) locating fueling activities in staging areas; (2) identification of existing gas pipelines in the area prior to construction; and, (3) proper removal of any PCB contaminated electrical transformers. The third impact is mitigated by: (1) prior to construction an investigation for constituents of concern and remediation plan shall be done; (2) soil sampling shall be done and if constituents of concern and if found disposal rules shall be followed.

10. Regarding noise, the project has the potential impacts of: (1) exceeding the local noise ordinance; (2) excessive ground vibrations; and, (3) a temporary increase in ambient noise levels. These impacts are mitigated by: (1) limiting of construction hours; and, (2) the use of mufflers on equipment and placing staging areas away from residences.

11. The IS/MND found that certain CEQA mandatory findings of significance had the potential for significant impacts, namely: (1) the degradation of examples of California history and adverse effects on human beings. Both of these impacts are mitigated by the measures identified above.

12. On May 26, 2010, the City filed a CE/CED Form. The Caltrans NEPA Determination states that this project fall under a Categorical Exclusion pursuant to 23 CFR 771.117(c): activity (c)(3) and 23 CFR 771.117(d): activity (d).

13. There were no significant impacts identified that relate to transportation and safety in the grade-separated crossing requested in this application.

14. No immitigable impacts were identified for the project.

15. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's IS/MND, NOD and CE/CED.

16. The IS/MND, NOD and CE/CED reflect the Commission's independent judgment and analysis

Conclusions of Law

1. The IS/MND, NOD and CE/CED prepared by the City as the documentation required by CEQA and NEPA for the project are adequate for our decision-making purposes. The project will not have significant effect on the environment.

2. The IS/MND, NOD and CE/CED were completed in compliance with CEQA and NEPA.

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 Sacramento is authorized to construct a new grade-separated pedestrian-rail crossing overhead structure that will span over seven tracks owned by the Union Pacific Railroad Company and two tracks owned by the Sacramento Regional Transit District in the City of Sacramento in Sacramento County.
2. The crossing shall be identified as CPUC Crossing Nos. 004-136.22-A for Union Pacific Railroad Company and 083S-3.11-A for Sacramento Regional Transit District.
3. The permanent minimum overhead clearance shall be 24 feet and 9 inches for existing track and 24 feet and 2 inches for future track. No restricted clearance shall exist during construction.
4. The City of Sacramento shall notify the California Public Utilities Commission's Safety and Enforcement Division, Office of Rail Safety - Rail Crossings Engineering Section at least 5 business days prior to opening the grade-separated pedestrian-rail crossing overhead structure. Notification should be made to rces@cpuc.ca.gov.
5. Within 30 days after completion of the work under this order, the City of Sacramento shall notify the California Public Utilities Commission's Safety and Enforcement Division, Office of Rail Safety - 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/formg> . This report may be submitted electronically to rces@cpuc.ca.gov as outlined on the web page.

6. Within 30 days after completion of the work under this order, Union Pacific Railroad Company shall notify the Federal Railroad Administration of the existence of the road over track crossing by submitting a U.S.DOT CROSSING INVENTORY FORM, form FRA F6180.71. Concurrently Union Pacific Railroad Company shall provide a copy of the inventory form to the California Public Utilities Commission's Safety and Enforcement Division, Office of Rail Safety - Rail Crossings Engineering Section. This copy of the form may be submitted electronically to rces@cpuc.ca.gov .

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

8. This authorization shall expire if not exercised within three years, 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.

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

10. The application is granted as set forth above.

11. Application 13-03-018 is closed.

This order is effective today.

Dated _____, at San Francisco, California.