

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Contra Costa Transportation Authority for an order authorizing construction of Northbound SR160 Connector Overhead (CPUC No. CC-1408, Milepost 56.45, Tracey Subdivision) and Southbound SR160 Connector Overhead (CPUC No. CC-1407, Milepost 56.35, Tracey Subdivision) over a set of tracks owned by the Union Pacific Railroad Company in the City of Antioch in the County of Contra Costa.

Application 13-05-003
(Filed May 1, 2013)

DECISION GRANTING AUTHORIZATION TO THE CONTRA COSTA TRANSPORTATION AUTHORITY TO CONSTRUCT TWO NEW GRADE-SEPARATED VEHICULAR CROSSINGS (SOUTHBOUND SR160 CONNECTOR OVERHEAD AND NORTHBOUND SR160 CONNECTOR OVERHEAD) OVER THE TRACKS OF THE UNION PACIFIC RAILROAD COMPANY IN THE CITY OF ANTIOCH, COUNTY OF CONTRA COSTA

Summary

This decision grants the Contra Costa Transportation Authority authorization to construct two new grade-separated vehicular crossings over the tracks of the Union Pacific Railroad Company for the State Route 4 Bypass Project, which extends State Route 4 southeast to Brentwood. The project involves creating two new connector ramps between State Route 4 and State Route 160 over the Union Pacific Railroad Company tracks, in the vicinity of Mile Posts Numbers 56.35 and 56.45 of the Union Pacific Railroad Company's Tracy Subdivision tracks, in the City of Antioch, County of Contra Costa. The new

grade-separated overcrossing for the Southbound State Route 160 to Eastbound State Route 4 connector ramp will be identified as CPUC Crossing No. 001B-56.35-A, CC-1407. The new grade-separated overcrossing for the Westbound State Route 4 to Northbound State Route 160 connector ramp will be identified as CPUC Crossing No. 001B-56.45-A, CC-1408.

Discussion

The Contra Costa Transportation Authority (CCTA) proposes to construct two new grade-separated vehicular crossings over the Union Pacific Railroad Company (UPRR) Tracy Subdivision mainline tracks for the State Route 4 Bypass Project, which extends State Route 4 southeast to Brentwood. The new grade-separated vehicular crossings are necessary to complete the interchange between State Route 4 and State Route 160. There is currently no direct path between State Route 160 and State Route 4 east of the interchange.

Rail operations include one freight train per day travelling 25 miles per hour at the proposed location of the crossings.

The design and construction of the grade-separated vehicular crossing structures will comply with all minimum clearance requirements set forth in California Public Utilities Commission (Commission) General Order 26-D, as well as all UPRR design standards. After construction, the California Department of Transportation (Caltrans) will take over ownership and maintain the grade-separated vehicular crossings and appurtenances, including their approaches.

The new grade-separated crossing identified as CPUC No. 001B-56.35-A, CC-1407, and United States Department of Transportation (DOT) No. 440791D includes two 12-foot wide lanes, and two 10-foot shoulders. A concrete barrier with chain link railing will be provided at the eastern edge of the overhead

structure and a concrete barrier will be provided at the western edge of the overhead structure.

The new grade-separated crossing identified as CPUC No. 001B-56.45-A, CC-1408, and DOT No. 440790W includes two 12-foot wide lanes, one 5-foot shoulder, and one 21-foot and 2-inch minimum shoulder. A concrete barrier with chain link railing will be provided at the western edge of the overhead structure. A masonry block sound wall will be provided at the eastern edge of the overhead structure.

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,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, the CCTA is the lead agency for this project because the project is being constructed by them, and subject to their 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 Also, 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 November 1994, the CCTA issued a Final Environmental Impact Report (FEIR) titled *State Route 4 Bypass Project*. On December 13, 1994, the FEIR was certified. An addendum, which addressed the grade-separated rail crossings before the Commission in this application, to the FEIR was issued in June 2011. The addendum was prepared due to changes which were necessary to the project which "would not result in any new significant environmental effects or

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)

substantial increases in the severity of previously identified significant impacts.” The CCTA released the Notice of Determination (NOD) on October 19, 2011, determining the project has significant effect on the environment requiring mitigation measures and adopting a Statement of Overriding Conditions.

The environmental findings of the FEIR and Addendum indicate the grade-separated rail crossings will have significant effects on the environment. Environmental impacts considered to be significant include noise level increases, impacts to existing wildlife during construction, discovery of cultural resources during construction, and the possibility of hazardous materials deposited within the soil. All impact can be mitigated to a less-than-significant level.

Regarding noise impacts, mitigation measure was the construction of sound walls. The FEIR and the Addendum found that this impact is less-than-significant after mitigation.

Regarding biological impacts to protected species, the mitigation measures is to follow an existing Habitat Conservation Plan, which includes measures such as passive relocation, destruction of unoccupied dens, and buffer zones. The FEIR and Addendum found that these impacts will be less than significant after mitigation.

Regarding cultural impacts, if previously unknown archaeological resources are discovered the mitigation measure is to stop work and an archaeologist is to be consulted to make an avoidance plan or excavation plan. The FEIR and the Addendum found that this impact is less than significant after mitigation.

Regarding hazardous material impacts, the mitigation measure is to do a site survey and a soil sampling plan, and if necessary a remedial action plan.

The FEIR and the Addendum found that this impact is less than significant after mitigation.

The Commission finds the proposed mitigation measures feasible and reasonable. The Commission reviewed and considered the FEIR, the June 2011 Addendum, and NOD 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, including Rule 3.7 of the Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Safety and Enforcement Division - Rail Crossings Engineering Section has inspected the site of the proposed crossing, has reviewed and analyzed the plans submitted with the application, and recommends that the requested authority to construct the subject crossing be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3315, dated May 23, 2013, 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, a public hearing is not necessary, and 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 is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on May 9, 2013. There are no unresolved matters or protests. A public hearing is not necessary.
2. The CCTA requests authority, under Public Utilities Code Sections 1201-1205, to construct two new grade-separated crossings to complete the State Route 4 to State Route 160 interchange, over the tracks of the UPRR in the City of Antioch, County of Contra Costa. The new grade-separated overcrossing for the Southbound State Route 160 to Eastbound State Route 4 connector ramp will be identified as CPUC Crossing No. 001B-56.35-A, CC-1407. The new grade-separated overcrossing for the Westbound State Route 4 to Northbound State Route 160 connector ramp will be identified as CPUC Crossing No. 001B-56.45-A, CC-1408..
3. The CCTA is the lead agency for this project under CEQA, as amended.
4. The CCTA prepared a FEIR, titled *State Route 4 Bypass Project*, dated November 1994, for this project. On December 13, 1994, the CCTA certified this FEIR. In June 2011, the CCTA released an Addendum to the FEIR documenting changes to the project. On October 19, 2011, the CCTA released the NOD.
5. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's FEIR, June 2011 Addendum, and NOD.
6. The project will have a potential significant effect on the environment and mitigation measures are required.

7. The environmental findings of the FEIR and Addendum indicate the grade-separated rail crossings will have significant effects on the environment. Environmental impacts considered to be significant include noise level increases, impacts to existing wildlife during construction, discovery of cultural resources during construction, and the possibility of hazardous materials deposited within the soil. All impact can be mitigated to a less-than-significant level.

8. Regarding noise impacts, mitigation measure was the construction of sound walls. The FEIR and the Addendum found that this impact is less than significant after mitigation.

9. Regarding biological impacts to protected species, the mitigation measures is to follow an existing Habitat Conservation Plan, which includes measures such as passive relocation, destruction of unoccupied dens, and buffer zones. The FEIR and Addendum found that these impacts will be less than significant after mitigation.

10. Regarding cultural impacts, if previously unknown archaeological resources are discovered the mitigation measure is to stop work and an archaeologist is to be consulted to make an avoidance plan or excavation plan. The FEIR and the Addendum found that this impact is less than significant after mitigation.

11. Regarding hazardous material impacts, the mitigation measure is to do a site survey and a soil sampling plan, and if necessary a remedial action plan. The FEIR and the Addendum found that this impact is less than significant after mitigation.

12. The Commission finds the mitigation measures adopted in the June 2011 Addendum reasonable and feasible.

13. The CCTA adopted a Statement of Overriding Conditions stating “the benefits of the project outweigh any significant and unavoidable or irreversible adverse impacts of the project.”

14. The FEIR, June 2011 Addendum, and NOD reflect the Commission’s independent judgment and analysis.

Conclusions of Law

1. The FEIR, titled *State Route 4 Bypass Project*, dated November 1994, prepared by the CCTA, the Addendum, and the NOD prepared by the CCTA as the documentation required by CEQA for the project are adequate for our 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.

O R D E R

IT IS ORDERED that:

1. The Contra Costa Transportation Authority is authorized to construct two new grade-separated crossings, Southbound SR160 Connector Overhead and Northbound SR160 Connector Overhead, over the tracks of the Union Pacific Railroad Company for the State Route 4 Bypass Project in the vicinity of Mile Post No. 56.35 and Mile Post No. 56.45 in the City of Antioch, County of Contra Costa.

2. The new grade-separated overcrossing for the Southbound State Route 160 to Eastbound State Route 4 connector ramp shall be identified as CPUC Crossing No. 001B-56.35-A, CC-1407. The new grade-separated overcrossing for the Westbound State Route 4 to Northbound State Route 160 connector ramp shall be identified as CPUC Crossing No. 001B-56.45-A, CC-1408.

3. The Contra Costa Transportation 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.

4. The Contra Costa Transportation Authority shall notify the California Public Utilities Commission's Safety Enforcement Division – Rail Crossings Engineering Section at least five business days prior to opening the crossing for public use. Notification should be made to rces@cpuc.ca.gov.

5. Within 30 days after completion of the work under this order, the Contra Costa Transportation Authority shall notify the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Section in writing, by submitting a completed California Public Utilities 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 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 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.

7. 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.

8. 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 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

9. The application is granted as set forth above.

10. Application 13-05-003 is closed.

This order is effective today.

Dated _____, at San Francisco, California.