

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the State of California acting by and through the Judicial Council of California, Administrative Office of the Courts, for an order authorizing the construction of a pedestrian bridge over MTS light rail tracks within the City of San Diego, County of San Diego: San Diego Central Courthouse Project.

Application 13-12-023
(Filed December 27, 2013)

DECISION GRANTING AUTHORIZATION TO THE ADMINISTRATIVE OFFICE OF THE COURTS TO CONSTRUCT A NEW GRADE-SEPARATED PEDESTRIAN BRIDGE CROSSING OVER TWO LIGHT RAIL TRACKS OF SAN DIEGO METROPOLITAN TRANSIT SYSTEM WITHIN THE CITY OF SAN DIEGO, SAN DIEGO COUNTY

Summary

This decision grants the State of California, acting by and through the Judicial Council of California, Administrative Office of the Courts, authorization to construct a new grade-separated pedestrian light-rail transit crossing over two tracks owned by the San Diego Metropolitan Transit System in the City of San Diego, San Diego County. The crossing will be identified as CPUC Crossing No. 081B-1.42-AD.

Discussion

The State of California, acting by and through the Judicial Council of California, Administrative Office of the Courts (AOC) requests authority to construct a new grade-separated pedestrian light-rail transit crossing (crossing) over two tracks owned by the San Diego Metropolitan Transit System (MTS) in

the City of San Diego (City), San Diego County. At this location, the tracks are street-running along the center of West "C" Street. The crossing will carry pedestrians between the fourth floor of the County of San Diego's Hall of Justice (Hall of Justice), located south of West "C" Street, and the third floor of the new high-rise court building that the AOC will construct north of West "C" Street (New Central Court Building). The AOC states that the proposed crossing will serve the general public's need by providing a safe, secure, and convenient path of pedestrian travel between the existing Hall of Justice and the New Central Court Building, which will have 71 courtrooms. The crossing will be identified as CPUC Crossing No. 081B-1.42-AD.

The nearest highway light-rail transit crossings are at each end of the block. The intersection of Union Street and West "C" Street (CPUC Crossing No. 081B-1.40) is located 57 feet to the east. The intersection of State Street and West "C" Street (CPUC Crossing No. 081B-1.45) located 75 feet to the west.

The crossing will be 160 feet long and approximately 10 feet wide, and span over two tracks of the MTS. The crossing will be constructed of structural steel, and the single support pier will be constructed of reinforced concrete. There will be vertical clearance of approximately 39 feet above the tracks, and approximately 15 feet above the catenary lines. Horizontal clearance from track centerline will be 16 feet, 10 inches.

Rail operations at the project location consist of 342 light-rail trains per day at a maximum speed of 25 mph. Rail operations are not expected to be impacted except during approximately 16 hours when the bridge structure is being hoisted into place.

Catenary poles and lines in the vicinity of the crossing will be reconfigured to allow placement of the support pier.

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 AOC 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

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.

only consider the impacts and mitigation measures for those parts of the project which it has jurisdiction over.⁴

In December 2010, the AOC published the Final Environmental Impact Report (FEIR) entitled "*New San Diego Central Courthouse for the Superior Court of California, County of San Diego: Final Environmental Impact Report.*" On December 15, 2010, the AOC filed a Notice of Determination (NOD) with the State Clearinghouse which states, "The [overall] project will have a significant effect on the environment. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. Mitigation measures were made a condition of the approval of the project. A Statement of Overriding Considerations was adopted for this project. Findings were made pursuant to the provisions of CEQA."

In May 2013, the AOC filed an Addendum to Environmental Impact Report (Addendum). The purpose of the Addendum was "to disclose and evaluate the AOC's deletion of a tunnel between the proposed courthouse and the County's existing Central Jail and the addition of several bus trips per day for the Sheriff's transport of in-custody detainees from the jail to the new courthouse." This aspect of the project is unrelated to the pedestrian bridge.

In November 2013, the City filed an NOD with the State Clearinghouse which documented agreements related to the project, including the encroachment agreement "to allow a public pedestrian bridge over the West C Street between Union Street and State Street."

⁴ CEQA Guideline (Title 14 of the California Code of Regulations), Section 15096(g)(1).

In the FEIR, the lead agency found that the New Central Court Building project, which includes construction of the proposed crossing, will have an impact on the surrounding environment. However, the AOC documented in the application that the project's impacts to the "C" Street corridor and its light rail line will be less than significant.

With respect to impacts from the new grade-separated pedestrian crossings which fall within the jurisdiction of the Commission, the AOC states that construction and post-construction impacts related to the crossing will be less than significant. Additionally, there were no significant impacts identified that relate to transportation, safety or other resource areas as a result of the crossing (or its construction).

The Commission reviewed and considered the AOC's FEIR 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 the Rules of Practice and Procedure, Rule 3.11, which relates to construction of light-rail transit system crossings, and Rule 3.7, which relates to construction of a public road across 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 crossing be granted for a period of three years.

Categorization and Need for Hearings

The application was published in the Commission's Daily Calendar on January 7, 2014. In Resolution ALJ 176-3329, dated January 16, 2014, 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

Denise Tyrrell 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 7, 2014. There are no unresolved matters or protests. A public hearing is not necessary.
2. The AOC requests authority, under Public Utilities Code Sections 1201-1205, to construct a grade-separated pedestrian light-rail transit crossing that will span over two tracks owned by the MTS in the City of San Diego in San Diego County. The crossing will be identified as CPUC Crossing No. 081B-1.42-AD.
3. The AOC is the lead agency for this project under CEQA.

4. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's FEIR, NOD, and Addendum.

5. The AOC prepared the FEIR, titled *New San Diego Central Courthouse for the Superior Court of California, County of San Diego: Final Environmental Impact Report*, dated December 2010, for this project.

6. On December 15, 2010, the AOC released an NOD.

7. With respect to impacts that fall within the jurisdiction of the Commission, the FEIR and Addendum determined that there will be no significant impacts due to the rail crossing part of the overall project.

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

9. The FEIR and NOD reflect the Commission's independent judgment and analysis.

Conclusions of Law

1. The FEIR and NOD prepared by the AOC as the documentation required by CEQA and National Environmental Policy Act (NEPA) for the project are adequate for our decision-making purposes.

2. The FEIR and NOD 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 State of California, acting by and through the Judicial Council of California, Administrative Office of the Courts, is authorized to construct a new

grade-separated pedestrian light-rail transit crossing above two tracks owned by the San Diego Metropolitan Transit District in the City of San Diego, San Diego County.

2. The crossing shall be identified as CPUC Crossing No. 081B-1.42-AD.

3. The minimum clearances between the new crossing and the light-rail tracks shall be consistent with the plans submitted with the application.

4. The Administrative Office of the Courts shall notify the California Public Utilities Commission's Safety and Enforcement Division, Office of Rail Safety - Rail Crossings Engineering Section at least five business days prior to opening the crossing. Notification must be made to rces@cpuc.ca.gov.

5. Within 30 days after completion of the work under this Order, the Administrative Office of the Courts 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 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. The Administrative Office of the Courts shall comply with all applicable rules, including California Public Utilities Commission General Orders, California Manual on Uniform Traffic Control Devices, and Americans with Disabilities Act.

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, 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.

9. The application is granted as set forth above.

10. Application 13-12-023 is closed.

This order is effective today.

Dated _____, at San Francisco, California.