

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Ukiah to Construct At-Grade Crossing at East Clay Street Across the North Coast Railroad Authority Rail Lines in the Vicinity of Mile Post 113.85 in the City of Ukiah, County of Mendocino, State of California.

Application 14-07-013
(Filed July 30, 2014)

**DECISION AUTHORIZING THE CITY OF UKIAH TO
CONSTRUCT A NEW PUBLIC AT-GRADE HIGHWAY-RAIL
CROSSING OVER THE NORTH COAST RAILROAD
AUTHORITY TRACKS IN THE CITY OF
UKIAH, COUNTY OF MENDOCINO**

Summary

This decision grants the City of Ukiah authorization to construct a new public at-grade highway-rail crossing over the tracks of the North Coast Railroad Authority in the City of Ukiah, Mendocino County. The new crossing will be identified as East Clay Street, California Public Utilities Commission Crossing Number 104-113.85 and United States Department of Transportation Number 967946C.

Discussion

The City of Ukiah (City) proposes to construct a new public at-grade highway-rail crossing (crossing) at East Clay Street over two tracks of the North Coast Railroad Authority (NCRA) in the City, Mendocino County (County). East Clay Street is a two-lane, east-west running roadway that dead-ends at the tracks

on the west side of the NCRA right-of-way. There is no rail service at this time on this portion of the NCRA line.

The City states that the project to extend East Clay Street over the NCRA tracks will provide the New Ukiah Courthouse Project a vital traffic circulation and secondary safety access route to meet public safety needs and support expansion of County's administrative offices. The crossing will also facilitate the area wide traffic circulation, which will reduce traffic impacts at nearby Perkins Street and in the surrounding residential neighborhoods. The extension of Hospital Drive at East Perkins Street, south of the New Ukiah Courthouse Project, will act as the primary entrance into the courthouse site. The East Clay Street extension towards the east, across the NCRA tracks, will primarily serve as a limited-access secondary route into the courthouse site. The crossing will allow access into the courthouse site through both commercial and industrial use roadways rather than using City's residential areas. The proposed East Clay Street crossing will serve as the primary transfer route for County detainees between holding facilities and scheduled hearings at the courthouse. The City proposes to construct the East Clay Street extension because it will provide a more direct access route for County detainee transfers. The City has determined in the best interest of the public that these transports not take place through residential areas such as those on Leslie Street.

The City will construct the crossing with several roadway and crossing safety improvements to provide safe pedestrian and bicycle traffic, and facilitate safer access to the New Ukiah Courthouse Project. The proposed East Clay Street will include the following features in the construction of the crossing:

- Precast concrete crossing panel surface for the double tracks;

- 50 feet wide, two-lane crossing with five feet wide Americans with Disabilities Act (ADA) compliant sidewalks for pedestrians and dedicated bicycle lanes in each direction through the crossing;
- Three feet tall, white flexible post-mounted median delineators for approximately 30 feet on both vehicular approaches to crossing;
- Sidewalks equipped with ADA compliant detectable warning tactile strips on all approaches, located a minimum of 12 feet from the centerline of the nearest track;
- Two curb mounted California Public Utilities Commission (Commission/CPUC) Standard 9 (flashing light signal assembly with automatic gate arm) warning devices; and
- A California Manual on Uniform Traffic Control Devices (CA MUTCD) W10-1 railroad advance warning sign with a W48 (CA) "2 TRACKS" sign placed in each approach direction.

In addition to the crossing, as part of this project, the City is building a pedestrian/bicycle pathway along the west side of the NCRA right-of-way. The pathway will cross East Clay Street approximately 35 feet west of the crossing. The City will construct/install the following safety features for the pedestrian/bicycle pathway:

- A new striped pedestrian crosswalk west of the crossing with ADA compliant curb, sidewalk landing and detectable warning strips;
- Pedestrian barricade along with fencing on the northwest quadrant of the crossing to channel pathway users to the new pedestrian crosswalk;
- Hardscape along pedestrian/bicycle pathway north of the crossing along the right-of-way;

- CA MUTCD W11-15 combined bicycle/pedestrian and W11-15P “TRAIL XING” signs placed on each roadway approach to the crossing;
- CA MUTCD compliant pavement markings and signage with “YIELD” markings placed eight feet in front of the railroad warning device gate in the westbound direction and 30 feet west of the crosswalk in the eastbound direction with CA MUTCD R1-5 “YIELD HERE TO” pedestrians signs placed on the shoulder, adjacent to the street yield markings;
- A CA MUTCD R8-8 “DO NOT STOP ON TRACKS” sign placed on the same post as the westbound R1-5 sign; and
- A CA MUTCD R1-1 “STOP” sign placed on each pathway approach where the path intersects with the sidewalk at East Clay Street.

When rail service is reinstated, the City will remove the “YIELD” pavement markings. The City will replace the westbound “YIELD” markings with a solid CA MUTCD 2 feet wide stop bar. The westernmost line of the crosswalk will become the stop bar for eastbound traffic. The City will remove the CA MUTCD R1-5 signs and replace them with CA MUTCD R10-6 “STOP HERE ON RED” signs. The westbound R8-8 “DO NOT STOP ON TRACKS” sign will remain in place.

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 Judicial Council of California, Administrative Office of the Courts (AOC) is the lead agency for this project because it prepared and approved an environmental impact report for the project, and the new crossing segment will be developed by the City of Ukiah, the local jurisdiction. The City is a responsible agency under CEQA. The Commission is also 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 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

In April 2011, AOC issued the Initial Study/Notice of Preparation (IS/NOP) for the New Ukiah Courthouse Project of which the East Clay Street

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).

extension and crossing is a part. In October 2011, the AOC issued the Draft Environmental Impact Report (DEIR) and, on April 11, 2012, issued the Final Environmental Impact Report (FEIR) for the New Ukiah Courthouse Project of which the East Clay Street extension and crossing is a part. The City prepared an IS and adopted a Mitigated Negative Declaration in July 2011.

On April 25, 2012, the AOC filed a Notice of Determination (NOD), approving the project and adopting the existing FEIR. The NOD states that (1) the project will have a significant effect on the environment; (2) an Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA; (3) mitigation measures were made a condition of the approval of the project; (4) a Statement of Overriding Considerations (SOC) was adopted for this project; and (5) findings were made pursuant to the provisions of CEQA.

Impacts identified under CEQA relating to the construction and implementation of the at-grade highway-rail crossing aspect of the project are within the scope of the Commission's jurisdiction. While the FEIR identified significant and unavoidable impacts, and thus adopted an SOC, the significant and unavoidable aspects of the project were not related to the rail-crossing but occurred due to other aspects of the larger New Ukiah Courthouse Project.

The FEIR indicates that the proposed project would have potentially significant impacts due to the rail crossing and new access points that could result in increased hazards due to operational features. However, these impacts would be reduced to less-than-significant levels with the implementation of the identified mitigation measures. Mitigation measures include sidewalk and bicycle pathway improvements, installation of active warning devices at the new

crossing, traffic signals at intersections adjacent to the crossing, installation of a median, and prohibition of parking within 100 feet of the at-grade crossing.

The Commission finds the proposed mitigation measures feasible and reasonable. The Commission reviewed and considered AOC's DEIR/FEIR, and NOD as they relate to this at-grade highway rail 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 and Engineering Branch 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 at-grade highway-rail crossing be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3340, dated August 14, 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 July 31, 2014. There are no unresolved matters or protests.
2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a new public at-grade highway-rail crossing over the tracks of the NCRA in the City in Mendocino County. The new crossing will be identified as East Clay Street, CPUC Crossing No. 104-113.85, United States Department of Transportation No. 967946C.
3. The AOC is the lead agency for this project under CEQA.
4. In October 2011, the AOC issued the DEIR for the New Ukiah Courthouse Project. The DEIR found that potentially significant impacts under the Commission's purview could result from the at-grade highway-rail crossing project, but would be reduced to less-than-significant levels with the implementation of the identified mitigation measures.
5. On April 11, 2012, City issued the FEIR for the project of which the East Clay Street extension and crossing is a part of.
6. On April 25, 2012 the AOC filed the NOD indicating that the project will have a significant effect on the environment, and adopted a SOC for the impacts that could not be fully mitigated.

7. Impacts related to the construction and implementation of the at-grade highway-rail crossing aspect of the project is within the scope of the Commission's permitting process.

8. As a condition of approval, mitigation measures were adopted. Mitigation measures proposed that relate to mitigating impacts from the at-grade highway-rail crossing include sidewalk and bicycle pathway improvements, installation and of active warning devices at the new crossing, traffic signals at intersections adjacent to the crossing, installation of a median, and prohibition of parking within 100 feet of the at-grade crossing.

9. The proposed at-grade highway-rail crossing will allow access into the courthouse site through both commercial and industrially used roadways rather than residential areas and offers a safer alternative than local residential streets as transfer route for County detainees between holding facilities and scheduled hearings at the new Ukiah Courthouse.

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

Conclusions of Law

1. The DEIR/FEIR, SOC, and NOD are adequate for our decision-making purposes.

2. The DEIR/FEIR, SOC, and NOD were completed in compliance with CEQA.

3. The DEIR/FEIR and NOD reflect the Commission's independent judgment and analysis.

4. Significant impacts identified under CEQA relating to the at-grade highway-rail crossing aspect of the project is under the Commission's jurisdiction.

5. The application is uncontested and a public hearing is not necessary.
6. 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 Ukiah is authorized to construct a new public at-grade highway-rail crossing over the two tracks of the North Coast Railroad Authority at milepost 113.85, in the City of Ukiah in Mendocino County.
2. The new public East Clay Street at-grade highway-rail crossing shall have the crossing treatments and configuration described above and specified in the application and its attachments. The new public East Clay Street at-grade highway-rail crossing shall be identified as California Public Utilities Commission Crossing Number 104-113.85 and United States Department of Transportation Number 967946C.
3. North Coast Railroad Authority shall ensure that Emergency Notification Systems Signs are installed to comply with Title 49, Code of Federal Regulation Section 234.309.
4. The City of Ukiah shall notify the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch at least five (5) business days prior to opening the at-grade highway-rail crossing. Notification must be made to rces@cpuc.ca.gov.
5. Within 30 days after completion of the work under this order, the City of Ukiah shall notify the Rail Crossings Engineering Branch 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>. This report may be submitted electronically to rces@cpuc.ca.gov .

6. Within 30 days after completion of the work under this order, North Coast Railroad Authority shall notify the Federal Railroad Administration of the existence of the at-grade highway rail crossing by submitting a United States Department of Transportation CROSSING INVENTORY FORM, form FRA F6180.71. Concurrently North Coast Railroad Authority shall provide a copy of the inventory form to the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch. This copy of the form may be submitted electronically to rces@cpuc.ca.gov .

7. The City of Ukiah 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.

8. This authorization shall expire in three years if the above conditions specified in Ordering Paragraphs 2 through 7 are not satisfied, unless time is extended. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so requires.

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, Rail Crossings and Engineering Branch 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 14-07-013 is closed.

This order is effective today.

Dated _____, 2014, at San Francisco, California.