

Decision 18-11-038 November 29, 2018

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

Application of the San Diego Association of Governments for an order authorizing construction of two light-rail vehicle tracks grade separated above realigned Campus Point Drive, in the City of San Diego, San Diego County, California.

Application 18-04-005

**DECISION GRANTING AUTHORIZATION TO THE SAN DIEGO ASSOCIATION OF GOVERNMENTS TO CONSTRUCT A NEW GRADE-SEPARATED LIGHT-RAIL TRANSIT SYSTEM CROSSING**

**Summary**

Pursuant to Public Utilities Code Sections 1201 and 1202, this decision grants the San Diego Association of Governments authorization to construct a new grade-separated light-rail transit system crossing over the realigned Campus Point Drive, at milepost 18.94 of the Mid-Coast Corridor, in the City of San Diego, San Diego County. The light-rail transit system crossing will be identified as California Public Utilities Commission Crossing number 081MC-18.94-B. This proceeding is closed.

**1. Background**

The San Diego Association of Governments (SANDAG or Applicant) requests authority to construct a new grade-separated light-rail transit system across realigned Campus Point Drive, at milepost 18.94 of the Mid-Coast Corridor Light-Rail Transit System, in the City of San Diego, San Diego County.

The Mid-Coast Corridor Transit Project will extend one of San Diego's existing light-rail lines (the Trolley Blue Line) from Santa Fe Depot in downtown San Diego to the University Towne Center (UTC) in University City.

On April 2, 2018, SANDAG applied for authorization for constructions. The Commission's Safety and Enforcement Division (SED) filed a response to SANDAG's application on May 16, 2018.

A prehearing conference (PHC) was held on June 19, 2018 to discuss the issues of law and fact and determine the need for hearing and schedule for resolving the matter. After considering the application, response, and discussion at the PHC, the Assigned Commissioner determined the issues and schedule of the proceeding and filed a Scoping Memo and Ruling (scoping memo) for the proceeding on July 11, 2018. The Scoping Memo defined the following issues as within the scope of the proceeding:

1. Whether the application meets all of the Commission's requirements, including Rule 3.11, General Order 26-D, and other Commission safety rules, procedures, and guidelines, such that the Commission should grant SANDAG's application to construct the requested grade-separated LRV crossing.
2. What are the significant environmental impacts of the portion of the project before the Commission?
3. What are the mitigation measures/alternatives that will eliminate or lessen the impacts of the part of the project before the Commission?
4. Are any of the mitigation measures infeasible for specific economic, legal, social, technological, or other considerations?
5. Are there any additional feasible mitigation measures within the Commission's powers that would lessen or avoid the identified impacts?

6. Are there specific overriding considerations that merit approval notwithstanding the unavoidable environmental impacts of the portion of the project before the Commission?
7. Has the Commission reviewed and considered the relevant portions of the Mid-Coast Final Supplemental Environmental Impact Statement and Subsequent Environmental Impact Report, and the Interstate 5 North Coast Corridor Project Final Environmental Impact Report / Environmental Impact Statement?
8. Whether it is in the public interest to have a grade-separated crossing at the realigned Campus Point Drive in San Diego, California.
9. Whether the Commission should grant SANDAG a period of five years to complete the project from the date a final decision in this proceeding is issued.

The Scoping Memo found that hearings were not necessary, and no hearings were held in this proceeding. As the application of SANDAG was unopposed, the matter was considered submitted on the date the scoping memo was issued. The scoping memo held that public review and comment for the proposed decision in this proceeding should be waived pursuant to Rule 14.6(c)(2).

## **2. Jurisdiction**

The Commission has jurisdiction over this Application pursuant to Public Utilities (Pub. Util.) Code §§ 1201 to 1205.

## **3. Compliance with the California Environmental Quality Act**

The Mid-Coast Corridor Transit Project constitutes a project under the California Environmental Quality Act of 1970 (CEQA) and the National Environmental Policy Act (NEPA). (Cal. Pub. Resources Code § 21000 *et seq.*;

42 U.S.C. 4371 *et seq.*) Under CEQA, the lead agency is either the public agency that carries out the project, or has the greatest responsibility for supervising or approving a project, which may have a significant impact on the environment. (14 Cal. Code Regs. §§ 15050 and 15051.)

A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Under CEQA, the lead agency is either the public agency that carries out the project, the agency with the first permit to issue, or the one with the greatest responsibility for supervising or approving the project as a whole. SANDAG is the Mid-Coast Corridor Transit Project proponent before the Commission. For the Mid-Coast Corridor Transit Project, SANDAG is the lead agency for the CEQA review and the federal department of transportation is the lead agency for NEPA.

SANDAG's application before the Commission for the new grade-separated overcrossing is described and analyzed in the *Mid-Coast Corridor Transit Project Final Supplemental Environmental Impact Statement / Environmental Impact Report* (Final SEIS/SEIR). SANDAG certified the Final SEIS/SEIR and a Notice of Determination was filed with the State Clearinghouse (SCH 2010051001) on July 11, 2014. For CEQA purposes the Commission is a Responsible Agency for the project that is before the Commission. (CEQA Guideline 15096.)

The State of California Department of Transportation and the U.S. Department of Transportation jointly approved a Final Environmental Impact Report and Environmental Impact Statement (EIR/EIS) for the Interstate-5 North Coast Corridor Project (SCH 2004101076) on October 23, 2013. A Notice of Determination was filed at the State Clearinghouse on November 5, 2013. The

EIR/EIS involved five federal agencies and 10 state and local cooperating agencies. The Interstate-5 North Coast Corridor Project is a multi-agency effort to improve transportation systems and communities along the Interstate-5 corridor in San Diego County.

Because the Mid-Coast Corridor Transit Project includes rail crossings, the Commission is a responsible agency under CEQA. As a responsible agency the Commission must consider the environmental effects identified in the *Mid-Coast Corridor Transit Project Final Supplemental Environmental Impact Statement / Environmental Impact Report* (Final SEIS/SEIR) relating to the portion of the Mid-Coast Corridor Transit Project that is before the Commission for approval. The Commission has authority to mitigate or avoid only the direct and indirect environmental effects of those parts of the project which it is called on to carry out or approve. The Mid-Coast Corridor Transit Project grade-separated overcrossing reviewed in the Final SEIS/SEIR is necessary to accommodate the realignment of Campus Point Drive which is part of a larger regional transportation planning exercise as described in the *Final Environmental Impact Report and Environmental Impact Statement for the Interstate 5 North Coast Corridor Project*.

The Commission has reviewed the Final SEIR/SEIS, and in particular the portions of the Final SEIR/SEIS that address the new grade-separated overcrossing that constitutes the project that this Commission is asked to approve in this proceeding. The Final SEIR/SEIS examined the potential impacts of the new grade-separated overcrossing and identified no specific, potential environmental impacts for the overcrossing. The Final SEIR/SEIS included many Best Management Practices (BMPs) to reduce or eliminate potential impacts such as noise, vibration, and aesthetics. Based on the analysis, the BMPs,

and the conclusions of the Final SEIR/SEIS, the new grade-separated overcrossing will not have a significant effect on the environment at this location and alignment.

Because there are no significant environment impacts resulting from the project that is before the Commission, the project is exempt from CEQA. (CEQA Guideline 15061(b)(3).) Accordingly, no further findings are required under CEQA.

The Commission's Energy Division will file a Notice of Determination with the CEQA clearinghouse stating that the Commission considered the environmental documents related to the proposed railroad crossings.

#### **4. Filing, Safety and Engineering Requirements**

Applications for the construction of grade-separated light-rail transit system crossings must meet the requirements of Rule 3.11 as well as the minimum clearance requirements of General Order (GO) 26-D.

SED's response stated that SED staff engaged in multiple site visits to the proposed light-rail crossing location and determined that a field diagnostic review meeting at the proposed light rail crossing was unnecessary.<sup>1</sup> After a review of the Application, SED staff also found that the application complies with applicable Commission Rules and GOs.<sup>2</sup>

After review, the Commission finds SANDAG provided materials in its Application sufficient to satisfy Rule 3.11 and GO 26-D requirements for the proposed light-rail transit system crossing. Issue number 1 from the scoping memo is therefore disposed of.

---

<sup>1</sup> SED Response at 2.

<sup>2</sup> SED Response at 2.

## **5. Request for Five-Year Authority to Construct**

SANDAG requests authority to construct the proposed light-rail crossing within five years of Commission authorization.<sup>3</sup> SED supports SANDAG's request for a five-year authorization to construct the proposed light-rail transit system crossing, noting the Mid-Coast Corridor Transit Project requires extensive work to complete and the extended authorization period will not impact safety as train service cannot begin prior to completion of the crossing.<sup>4</sup> The Commission finds SANDAG's request reasonable and approves SANDAG's request to authorize the construction of the light-rail transit system crossing at Gilman Avenue for five years from the date of this Decision. Issue number 9 from the scoping memo is therefore disposed of.

## **6. Conclusion**

We conclude that the Application conforms to our rules for granting authority to construct light-rail transit system crossings, and does not present any significant environmental impacts. Accordingly, this decision finds that it is in the public interest to have a grade-separated crossing at the realigned Campus Point Drive in San Diego, California, and grants SANDAG the authority to construct one new grade-separated light-rail transit system crossing at realigned Campus Point Drive, at milepost 18.94 of the proposed mid-Coast Corridor, in the City of San Diego, County of San Diego; subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

---

<sup>3</sup> Application at 6.

<sup>4</sup> SED Response at 2-3.

## **7. 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), the otherwise applicable 30-day period for public review and comment is waived.

## **8. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Patrick Doherty is the assigned Administrative Law Judge in this proceeding.

## **Findings of Fact**

1. The proposed railroad crossing meets the requirements of Rule 3.11.
2. The proposed railroad crossing meets GO 26-D requirements.
3. No significant environmental impacts are directly associated with the proposed, grade-separated light rail transit system crossing.

## **Conclusions of Law**

1. The Commission reviewed and considered the environmental compliance documents submitted by SANDAG, including the Final SEIS/SEIR.
2. SANDAG's request for Commission authorization to construct the railroad crossing within five years is reasonable, and should be approved.
3. It is in the public interest to have a grade-separated crossing at the realigned Campus Point Drive in San Diego, California.
4. The application should be granted.



**O R D E R**

**IT IS ORDERED** that:

1. San Diego Association of Governments is authorized to construct one new grade-separated highway light-rail crossing at the realigned Campus Point Drive in the City of San Diego, County of San Diego.

2. The grade-separated highway light-rail crossing shall be identified as California Public Utilities Commission Crossing number 081MC-18.94-B.

3. The grade-separated highway light-rail crossing shall have the configuration specified in the application and its attachments.

4. San Diego Association of Governments shall comply with all applicable rules, including California Public Utilities Commission General Orders and the California Manual on Uniform Traffic Control Devices.

5. San Diego Association of Governments must notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety and Enforcement Division at least five business days prior to opening the grade-separated light-rail crossing. Notification shall be made by e-mail to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

6. San Diego Association of Governments must notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety and Enforcement Division of any changes to the milepost assigned to this location at least five business days prior to opening the grade-separated light-rail crossing. Notification shall be made by email to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

7. Within 30 days after completion of the work authorized by this decision, San Diego Association of Governments must notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety and Enforcement Division of the completion of the authorized work by submitting a

completed California Public Utilities Commission Standard Form G (Report of Changes at Highway Grade Crossings and Separations). Form G requirements and forms can be obtained at the California Public Utilities Commission website at <http://www.cpuc.ca.gov/Crossings>. The completed report must be submitted via email to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

8. The authorization to construct the proposed light-rail crossing shall expire if not exercised within five years of the issuance of this decision, unless the authorization 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. San Diego Association of Governments may request an extension of the five-year authorization to construct the proposed light-rail crossing by submitting a request for extension to the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety and Enforcement Division at least 30 days prior to the expiration of the authorization to construct.

10. The application is granted as set forth above.

11. Application 18-04-005 is closed.

This order is effective today.

Dated November 29, 2018, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners