

Decision 11-02-013 February 24, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Port of Stockton to construct a new, at-grade railroad crossing as well as to install passive and active warning devices at Harbor Street within the County of San Joaquin.

Application 10-09-011
(Filed September 17, 2010)

DECISION GRANTING AUTHORIZATION TO THE PORT OF STOCKTON TO CONSTRUCT A NEW AT-GRADE HIGHWAY-RAIL CROSSING AT HARBOR STREET IN THE COUNTY OF SAN JOAQUIN

Summary

This decision grants the Port of Stockton authorization to construct a new at-grade highway-rail crossing across Harbor Street in San Joaquin County. The new crossing will be identified as CPUC Crossing No. 061-2.10.

Discussion

The Port of Stockton (Port) requests authority to construct a new at-grade highway-rail crossing of the Central California Traction Company (CCTC) tracks over Harbor Street in the Port in San Joaquin County. The crossing is a reconstruction of an old crossing that was removed approximately 30 years ago. The new crossing will reconnect existing CCTC tracks on either side of Harbor Street. The crossing will allow a more direct rail route to Port customers and will allow CCTC to reduce locomotive operation time by 4 hours per day, thereby reducing locomotive emissions in and around the Port by approximately 1040 hours per year. The crossing also will add redundancy to the Port’s rail operations by giving them a secondary access should there be a service

disruption to the primary access on the Port's main track. CCTC will run approximately two trains per day at 10 miles per hour over the new crossing.

Harbor Street is a 24-foot wide, two-lane road that runs generally east/west. The speed limit is 25 mph. The track will cross Harbor Street at an approximate 25-degree skew angle. Warning devices shall consist of two curb mounted Commission Standard 9 warning devices (flashing light signal assembly with automatic gate arm). The crossing surface shall be concrete panels. A California Manual on Uniform Traffic Control Devices (CAMUTCD) R8-8 "Do Not Stop on Tracks" sign shall be placed adjacent to the crossing stop bars in both traffic directions. CAMUTCD W10-12 skew crossings signs shall be placed in advance of the crossing on both approaches as per CAMUTCD guidelines. The pavement markings shall consist of stop bars, railroad crossing demarcations, as well as a solid line to indicate a "No passing" area on both approaches of the crossing. Cement barricades (K-rail) shall be installed at the property in the southeast quadrant of the crossing, which is on Port-owned property, to prevent access to the property from between the warning device and tracks in that quadrant.

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 Port is the lead agency for this project because the project, is being constructed by them, and is 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

On October 18, 2010, the Port filed a Notice of Exemption (NOE) with the San Joaquin County Clerk's Office. The NOE states that the project is Categorically Exempt under CEQA Sections 15301 Class 1 (Existing Facilities), 15302 Class 2 (Replacement or Reconstruction), 15303 Class 3 (New Construction or Conversion of Small Structures), and 15311 Class 11 (Accessory Structures).

The Commission reviewed and considered the Port's NOE as it relates to this at-grade crossing and finds it adequate for our decision-making purposes.

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.

Filing Requirements and Staff Recommendations

This application is in compliance with the Commission's filing requirements including Rule 3.9 of the Rules of Practice and Procedure, which relates to the construction of a railroad across a public road.

The Commission's Consumer Protection and Safety 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 two years.

Categorization and Need for Hearings

In Resolution ALJ 176-3262, dated October 14, 2010, 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

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on September 24, 2010. There are no unresolved matters or protests. A public hearing is not necessary.

2. The Port requests authority, under Public Utilities Code Sections 1201-1205, to construct a new at-grade highway-rail crossing of the CCTC tracks over Harbor Street in the Port in San Joaquin County.

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

4. The Port filed the NOE for the project on March 11, 2010 with the San Joaquin County Clerk's Office. The NOE states that the project is Categorically Exempt under CEQA Sections 15301 Class 1 (Existing Facilities), 15302 Class 2 (Replacement or Reconstruction), 15303 Class 3 (New Construction or Conversion of Small Structures), and 15311 Class 11 (Accessory Structures).

5. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's NOE.

6. The project is categorically exempt from CEQA.

Conclusions of Law

1. The NOE prepared by the Port as the documentation required by CEQA for the project is adequate for our decision-making purposes. This project is categorically exempt from the requirements of CEQA pursuant to Sections 15301 Class 1 (Existing Facilities), 15302 Class 2 (Replacement or Reconstruction), 15303 Class 3 (New Construction or Conversion of Small Structures), and 15311 Class 11 (Accessory Structures).

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 Port of Stockton is authorized to construct the new at-grade highway-rail crossing at Harbor Street. The crossing will be identified as CPUC Crossing No. 061-2.10 in the Port of Stockton, County of San Joaquin.
2. Warning devices shall consist of two curb-mounted Commission Standard 9 warning devices (flashing light signal assembly with automatic gate arm).
3. The crossing surface shall be concrete panels.
4. A California Manual on Uniform Traffic Control Devices R8-8 "Do Not Stop on Tracks" sign shall be placed adjacent to the crossing stop bars in both traffic directions.
5. California Manual on Uniform Traffic Control Devices W10-12 skewed crossing signs shall be placed in advance of the crossing on both approaches.
6. The pavement markings shall consist of stop bars, railroad crossing demarcations, as well as a solid line to indicate a "No passing" area on both approaches of the crossing.
7. Cement barricades (K-rail) shall be installed in the southeast quadrant, between the warnings device and the tracks.
8. The Port of Stockton shall notify the Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section at least five (5) business days prior to opening the crossing. Notification should be made to rces@cpuc.ca.gov.
9. Within 30 days after completion of the work under this order, the Port of Stockton shall notify the 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 CPUC 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.

10. Within 30 days after completion of the work under this order, Central California Traction 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 is to be provided concurrently to the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section. This copy of the form may be submitted electronically to rces@cpuc.ca.gov .

11. The Port of Stockton shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

12. This authorization shall expire if not exercised within two years, unless time is extended or if the above conditions are not satisfied. The Commission may revoke or modify this authorization if public convenience, necessity, or safety so require.

13. A request for extension of the two-year authorization period must be submitted to the 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.

14. The application is granted as set forth above.

15. Application 10-09-011 is closed.

This order becomes effective 30 days from today.

Dated February 24, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
Commissioners

Commissioner Catherine J.K. Sandoval, being necessarily absent, did not participate.