

Decision 12-03-042 March 22, 2012

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

Application of the Port of Los Angeles to construct the South Access Road at-grade crossing at an existing railroad operated by the Pacific Harbor Line, Inc., which crossing is located approximately 0.1 mile south of the intersection of Water Street/Pier A Street at rail milepost 2.0 in the San Pedro community of Los Angeles (New DOT #931160J).

Application 11-04-024  
(Filed April 28, 2011)

**DECISION GRANTING AUTHORITY TO CONSTRUCT THE SOUTH ACCESS ROAD AT-GRADE CROSSING OF THE PORT OF LOS ANGELES RAILROAD TRACKS OPERATED BY PACIFIC HARBOR LINE, INC. IN THE CITY OF LOS ANGELES, LOS ANGELES COUNTY**

**Summary**

This decision grants the Port of Los Angeles permission to construct a new at-grade crossing of the South Access Road, across its San Pedro Subdivision-Borax Lead freight track, in the San Pedro Community of the City of Los Angeles, Los Angeles County. The new crossing is to be identified by CPUC Crossing No. 121SB-2.00 and DOT No. 931160J.

**Discussion**

Proposed Project

The Port of Los Angeles (POLA) is a municipal corporation of the City of Los Angeles. POLA owns the railroad right-of-way network within

the Port area. Pacific Harbor Line, Inc. provides rail transportation, maintenance, and dispatch services for POLA. POLA requests authorization to construct a new public road, identified as South Access Road, across its single San Pedro Subdivision-Borax Lead freight track, onto Fries Avenue thereby creating a new at-grade crossing. The proposed South Access Road will cross POLA's San Pedro subdivision freight track at milepost 2.00. POLA has acquired a new U.S. Department of Transportation Crossing Identification (DOT) No. 931160J for the proposed crossing.

This proposed project is part of the expansion and modernization of the terminals at Berths 136-147, in the Port. A major element of the proposed project includes the construction of a Main Viaduct Bridge. The South Access Road will serve as a connector between the Main Viaduct Bridge and Fries Avenue to the local POLA street network. The proposed South Access Road crossing is located approximately 0.1 miles south of the intersection of Water Street/Pier A Street (CPUC No. 121SB-1.70-C and DOT No. 747736F).

Train speeds on the San Pedro subdivision track are approximately 5 to 10 miles per hour, with approximately 4 trains using this rail line daily.

#### South Access Road At-Grade Crossing

The proposed South Access Road will be a north-south secondary, minor arterial highway, designed as a two-lane roadway approximately 40 feet wide. The South Access Road will be stop sign controlled at the intersection with Fries Avenue. The at-grade crossing will be equipped with the following safety features:

1. One CPUC Standard 9 (flashing light signal assembly with automatic gate arm) warning device mounted on the curb for eastbound traffic making right turns onto southbound Fries Avenue;
2. One CPUC Standard 9 warning device mounted on a median island for eastbound traffic making left turns onto northbound Fries Avenue;
3. One 100-feet in length, 4-feet in width and 8-inch in height median island on the South Access Road vehicular approach to the crossing; and
4. Application of California Manual on Uniform Traffic Control Devices compliant signage and pavement markings, including R4-7 "Keep Right" signs, R8-8 "Do Not Stop on Track" signs, W10-1 advance warning signs, W48 (CA) 1 track signs, and RxR pavement markings;

#### Environmental Review

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,<sup>1</sup> or the one with the greatest responsibility for supervising or approving the project as a whole.<sup>2</sup> Here, POLA is the lead agency for this project. The Commission is a responsible agency because it has jurisdiction to issue a permit for a portion of 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.<sup>3</sup>

Under CEQA, on February 13, 2006, POLA adopted a Notice of Determination (NOD) indicating that the project is Statutorily Exempt under State Code 2(h) Section 15282, and will not have a significant effect on the environment.

In addition, pursuant to the National Environmental Policy Act (NEPA),<sup>4</sup> the Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) approved the categorical exclusion document on December 22, 2010, under 23 CFR 771.117(d): activity (d)(11).

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<sup>1</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

<sup>2</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

<sup>3</sup> CEQA Guidelines, Sections 15050(b) and 15096.

<sup>4</sup> 42 USC 4332 (2)(c) of 1969 as amended. Projects undertaken in California that utilize federal funds, require discretionary federal approval, or are undertaken by federal agencies are subject to both NEPA and CEQA.

The Commission reviewed and considered the lead agency's CEQA NOD and NEPA Categorical Exclusion and finds it adequate for our decision-making purposes.

The Commission independently finds that this project is exempt under CEQA.

### **Filing Requirements and Staff Recommendation**

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of Rules of Practice and Procedure, which relates to the construction of a public road across a railroad.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section 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 176-3273, dated May 5, 2011, 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**

Michelle Cooke 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 2, 2011. There are no unresolved matters or protests; a public hearing is not necessary.

2. POLA requests authority to construct a new public road, identified as South Access Road, across its San Pedro Subdivision-Borax Lead freight track, thereby creating a new at-grade crossing, CPUC Crossing No. 121SB-2.00 and DOT No. 931160J.

3. POLA is the lead agency for this project under CEQA, as amended.

4. Caltrans is the lead agency for this project under NEPA, as amended.

5. POLA adopted a NOD indicating that the project is Statutorily Exempt under State Code 2(h) Section 15282.

6. Caltrans and FHWA approved the categorical exclusion document on December 22, 2010.

7. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's NOD and NEPA categorical exclusion.

### **Conclusions of Law**

1. The NOD and NEPA categorical exclusion are adequate for our decision-making purposes.

2. The Commission independently finds that this project is exempt under CEQA.
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.

## **ORDER**

### **IT IS ORDERED** that:

1. The Port of Los Angeles, a municipal corporation of the City of Los Angeles, is authorized to construct a new public road, identified as South Access Road, across its San Pedro Subdivision-Borax Lead freight track, thereby creating a new at-grade crossing at milepost 2.0, in the City of Los Angeles, Los Angeles County, at the location and substantially as described in the application.
2. The new South Access Road at-grade crossing shall be identified as CPUC Crossing No. 121SB-2.00 and U.S. Department of Transportation No. 931160J.
3. The new South Access Road at-grade crossing shall include one single freight track. Crossing treatments and configuration shall be as described above and specified in the application and attachments.
4. The Port of Los Angeles shall notify the Los Angeles office of the Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section at least five (5) business days prior to opening of the crossing. Notification should be made to [rces@cpuc.ca.gov](mailto:rces@cpuc.ca.gov).
5. Within 30 days after completion of the work under this order, the Port of Los Angeles shall notify 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](mailto:rces@cpuc.ca.gov) as outlined on the web page.

6. Within 30 days after completion of the work under this order, the Port of Los Angeles shall notify the Federal Railroad Administration of the construction of the new at-grade crossing by submitting a U.S.DOT CROSSING INVENTORY FORM, form FRA F6180.71. A copy of this submittal is to be provided concurrently to the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section. A copy of the form may be submitted electronically to [rces@cpuc.ca.gov](mailto:rces@cpuc.ca.gov).

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

8. This authorization shall expire if not exercised within three years, unless time is extended or if compliance with the above conditions has not been achieved. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

9. A request for an extension of the three-year authorization period must be submitted to 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.

10. This application is granted as set forth above.

11. Application 11-04-024 is closed.

This order becomes effective 30 days from today.

Dated March 22, 2012, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J. K. SANDOVAL

MARK J. FERRON

Commissioners