

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Port of Stockton to remove two crossings and consolidate into one new crossing of the lead track to the yard tracks on Rough and Ready Island, Port of Stockton, City of Stockton, San Joaquin County.

Application 04-12-006
(Filed December 15, 2004)

OPINION**Summary**

This decision grants the request of the Port of Stockton (Port) to construct an at-grade highway-rail crossing (crossing) over the tracks of the Port at a currently unnamed road and to close the existing crossings at Navy Drive and Hooper Drive. The new crossing will be identified as CPUC Crossing No. 123-1.80.

Discussion

The Port requests authority to build an at-grade highway-rail crossing across its tracks at an unnamed road at approximate milepost 1.80, in San Joaquin County. The proposed public crossing is needed to meet the new Marine Security perimeter requirements for wharf areas on Rough and Ready Island, established per the new Homeland Security Act requirements. The proposed crossing will be the primary access point into the Port of Stockton West Complex and wharf areas, providing a safer, perpendicular crossing of the lead track. The crossings at Navy Drive (123-1.67) and Hooper Drive (123-1.99) will be closed in conjunction with opening the crossing at the unnamed road.

The proposed at-grade crossing will be an approximately 60-foot wide four-lane crossing with a concrete panel surface. Warning devices will consist of two Commission Standard #8A automatic flashers and cantilever, with pavement markings and three W10-2s and one W10-1 advanced warning signs in directions approaching the crossing.

The Central California Traction Company (CCT) provides rail service for the Port and currently runs 10 freight trains per week, running at 10 mph.

The Port states that a separation of grades is not practicable, due to the cost of such a structure as compared to the existing low volume of traffic that is projected to use the crossing.

The Port is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Section 21000 et seq. In November 2002, the Port issued a Draft Environmental Impact Report (DEIR) for the project and in May 2004 issued a Final Environmental Impact Report (FEIR), SCH# 200203248.

On June 24, 2004, the Port filed a Notice of Determination (NOD) with San Joaquin County for the project of which the proposed crossing is a part. Consistent with the FEIR, the NOD stated that the project would result in potentially significant environmental impacts. Accordingly, mitigation measures were adopted and made a condition for project approval. The Commission is a responsible agency for this project under CEQA (Public Resources Code Section 21000 et seq.). CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15059(b)). The specific

activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

We have reviewed the lead agency's environmental documents for the project and find them adequate for our decision-making purposes. Safety, transportation and noise are within the scope of the Commission's permitting process. Our review of the DEIR and FEIR reveals that no potentially significant environmental impacts were identified related to the rail crossing which is the subject of this application.

The Commission's Rail Crossings Engineering Section (RCES) inspected the site and examined the need for, and safety of the crossing. RCES recommends that the requested authority sought by the Port be granted for a period of two years.

Application 04-12-006 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

Categorization and Need for Hearings

In Resolution ALJ 176-3144 dated December 16, 2004 and published in the Commission Daily Calendar on December 17, 2004 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3144.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the

otherwise applicable 30-day period for public review and comment is being 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 December 16, 2004. No protests have been filed.
2. The Port requests authority, under Public Utilities Code Sections 1201-1205, to construct a new at-grade highway-rail crossing across its tracks, to be identified as CPUC Crossing No. 123-1.80.
3. The proposed crossing will be the primary access point into the Port of Stockton West Complex and wharf areas, providing a safer, perpendicular crossing of the lead track.
4. The crossings at Navy Drive (123-1.67) and Hooper Drive (123-1.99) will be closed in conjunction with opening the new crossing.
5. Public convenience, safety and necessity require the construction of the crossing in San Joaquin County.
6. Public safety requires that the crossing be equipped with two Commission Standard #8A automatic flashers and cantilever with pavement markings and three W10-2s and one W10-1 advanced warning signs in directions approaching the crossing.
7. CCT currently runs 10 freight trains per week at 10 mph.
8. The Port is the lead agency for this project under CEQA, as amended.
9. On June 24, 2004, the Port filed a Notice of Determination for the project of which the proposed crossing is a part, and found that the crossing will have

significant effects on the environment. Mitigation measures were made a condition of approval.

10. The Commission is a responsible agency for this project, has reviewed the Port's environmental documents and finds them adequate for our decision-making purposes.

11. Safety, transportation and noise are within the scope of the Commission's permitting process.

12. The Port's environmental documentation did not identify any potential impacts related to safety, transportation and noise.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. 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 (Port) is authorized to construct a new at-grade highway-rail crossing (crossing) across its tracks at the location as shown on the plans attached to the application, identified as CPUC Crossing No. 123-1.80. The crossing shall be equipped with two Commission Standard #8A automatic flashers and cantilever with pavement markings and three W10-2 and one W10-1 advanced warning signs in directions approaching the crossing.
2. The Port shall close the Navy Drive and Hooper Drive crossings.
3. The Port shall comply with all applicable rules, including General Orders and Manual on Uniform Traffic Control Devices (MUTCD), as amended by the MUTCD California Supplement.

4. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the Port and the Central California Traction Company (CCT) (parties). Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

5. Within 30 days after completion of this project, CCT shall notify the Commission's Rail Crossings Engineering Section in writing by submitting a completed Standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) that the authorized work is completed.

6. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

7. This application is granted as set forth above.

8. Application 04-12-006 is closed.

This order is effective today.

Dated _____, at San Francisco, California.