

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Chowchilla, for an order authorizing the City to change Road 16 ½ at-grade crossing from private to public over tracks and right of way of the City of Chowchilla in the City of Chowchilla, Madera County, State of California.

Application 06-02-004
(Filed February 6, 2006)

O P I N I O N

Summary

This decision grants the request of the City of Chowchilla (City) for authority to convert a private at-grade highway-rail crossing to a public at-grade highway-rail crossing (crossing). The crossing is located at the extension of Road 16 ½ across a single spur track and right-of-way owned by and located in City of Chowchilla, Madera County. The Union Pacific Railroad Company (UPRR) provides train service over the track, while the City holds ownership of the track and right-of-way. The new crossing will be identified as CPUC Crossing No. 001B-169.60-C. A map of the general project vicinity and proposed plan for the crossing is set forth in Appendix A.

Discussion

This project will convert an existing private at-grade crossing, controlled only by crossbucks, to a public at-grade crossing, controlled by active warning devices, within the right-of-way of a spur track owned by City and located in City at Road 16 ½. Currently, Road 16 ½ terminates just south of the existing

private railroad crossing. Industrial growth in the immediate area has resulted in the necessity to extend Road 16 ½ across the railroad track so it can connect with surrounding public roadways in this light industrial area adjacent to the Chowchilla Municipal Airport. City will be hiring a private contractor to perform all crossing construction in compliance with UPPR and Commission standards. UPPR will inspect and approve all work prior to allowing train service over the crossing. The expected train speed at the crossing is 10 mph and the anticipated train traffic is six freight trains per week. There will be no passenger trains. The projected Annual Average Daily Traffic for this roadway including the crossing area is less than 1500 vehicles, at a posted speed of 30 miles per hour. Due to the relative isolation of this area from other parts of the City, there is not expected to be significant through traffic utilizing the crossing.

In its application, City states “that a grade separation at this location would not be cost-effective as compared to the installation of a grade separation at other highway-rail crossings that have much more frequent rail service.” Considering the expected train and vehicular traffic and their speeds, a grade separation structure is not warranted at this time.

The proposed improvements to the roadway at Road 16 ½ will consist of two paved traffic lanes, one center turn lane, and one parking lane. The total width of the roadway will be 46 feet with a 12-foot wide northbound lane, 12-foot wide southbound lane, 12-foot wide median/center turn lane, and a 10-foot wide southbound parking lane. Parking will be prohibited for at least 50 feet on each side of the crossing.

The crossing shall be protected by a CPUC Standard No. 9 warning device (automatic gate type signal as defined in Commission General Order 75-C) and a raised concrete median on both approaches. There shall also be, on both sides of

the crossing, standard pavement markings and signage for highway-rail grade crossings installed per the Federal Highway Administration's Manual on Uniform Traffic Control Devices, as amended by the California Supplement. City has agreed to install concrete panels for the crossing surface.

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 must 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 the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, City is the lead agency for this project and the Commission is a responsible agency. 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.²

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

² CEQA Guidelines, Sections 15050(b) and 15096.

The Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section (RCES) has reviewed City's Notice of Determination (NOD) issued March 26, 2003 for this crossing project and finds it adequate for our decision-making purposes. City's NOD concludes that the crossing conversion from private to public, including the installation of warning devices, will not have a significant effect on the environment.

RCES has inspected the site of the proposed crossing. After reviewing the need for and safety of the proposed crossing, RCES recommends that the requested authority sought by City be granted for a period of two years.

Application 06-02-004 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 3.7, which relates to the construction of a public highway across a railroad.

Categorization and Need for Hearings

In Resolution ALJ 176-3167 dated February 16, 2006; 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 176-3167.

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 February 7, 2006. No protests have been filed.
2. City requests authority, under Public Utilities Code Sections 1201-1205, to convert a private at-grade crossing to a public at-grade crossing at the extension of Road 16 ½ across the single spur track and right-of-way of City located in City, Madera County. The new, public crossing will be identified as Road 16 ½, CPUC Crossing No, 001B-169.60-C.
3. Public convenience, safety, and necessity require the conversion of the existing private crossing to a public crossing.
4. City proposes that the crossing will have a CPUC Standard No. 9 warning device and a median on both sides of the track.
5. An average of six freight trains (no passenger trains) per week operating at approximately 10 mph will travel across the crossing.
6. City is the lead agency for this project under CEQA, as amended.
7. City issued an NOD, pursuant to CEQA, for this crossing project. The NOD has concluded that the conversion of the crossing from private to public will not have a significant effect on the environment.
8. The Commission is a responsible agency for this project and has reviewed and considered City's NOD.

Conclusions of Law

1. The NOD issued by City as the documentation required by CEQA for the crossing project is adequate for our decision-making purposes.
2. We adopt City's NOD finding that the conversion will not have a significant effect on the environment.
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.

O R D E R

IT IS ORDERED that:

1. The City of Chowchilla (City) is authorized to convert a private at-grade highway-rail crossing to a public at-grade highway-rail crossing (crossing) at the extension of Road 16 ½ across the single spur track and right-of-way of City located in City of Chowchilla, Madera County. The crossing will be identified as CPUC Crossing No. 001B-169.60-C, Road 16 ½.
2. Public safety requires that the new, public crossing at Road 16 ½ shall be protected by a CPUC Standard No. 9 warning device and a raised concrete median on both sides. There shall also be, on both sides of the crossing, standard pavement markings and signage for highway-rail grade crossings installed per the Federal Highway Administration' Manual on Uniform Traffic Control Devices (MUTCD), as amended by the California Supplement.
3. City shall comply with all applicable rules, including Commission General Orders and the Federal Highway Administration's MUTCD, as amended by the MUTCD California Supplement.
4. All construction and maintenance costs shall be borne by the City. The City shall construct the new crossing in compliance with Commission and Union Pacific Railroad Company (UPRR) standards.
5. Within 30 days after completion of the work under this order, UPRR shall notify Rail Crossings Engineering Section (RCES) in writing, by submitting a completed Standard Commission Form G (*Report of Changes at Highway Grade Crossings and Separations*), that the authorized work was 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. A request for extension of the two-year authorization period must be submitted to RCES at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

8. This application is granted as set forth above.

9. Application 06-02-004 is closed.

This order becomes effective 30 days from today.

Dated _____, at Fresno, California.

APPENDIX A

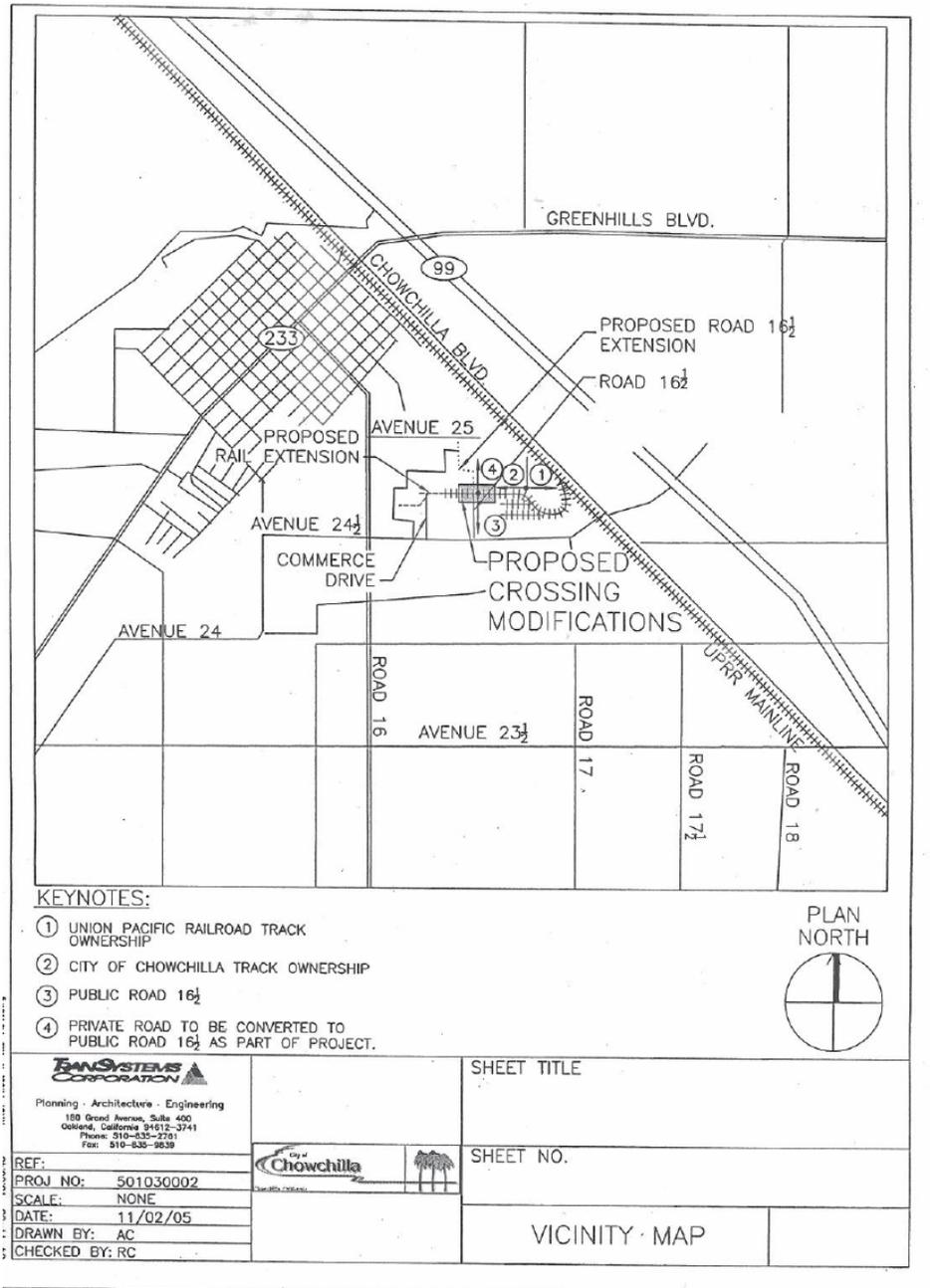


Figure 1 - Vicinity Map

