Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Sanitation Districts of Los Angeles County for authority/order to construct a railroad spur track across three existing public roads in the County of Imperial: BLM Road 606, MP 1.11, UPRR MP 698.11 Yuma Sub., DOT No. 924384P, BLM Road 607, MP 1.91, UPRR MP 698.91 Yuma Sub., DOT No. 924385W, and BLM Road 004, MP 2.63, UPRR MP 699.63 Yuma Sub. DOT No. 924386D.	Application 08-04-024 (Filed April 7, 2008; Amendment filed November 5, 2008)

DECISION GRANTING SANITATION DISTRICTS OF LOS ANGELES COUNTY AUTHORITY TO CONSTRUCT A RAILROAD SPUR TRACK ACROSS THREE EXISTING PUBLIC ROADS IN THE COUNTY OF IMPERIAL

Summary

This decision grants the Sanitation Districts of Los Angeles County (SDLAC) authority to construct a railroad spur track across three public roads near Glamis in the County of Imperial (County), including three new at-grade railroad crossings.

Discussion

The application requests authority to construct a railroad spur track, from Union Pacific Railroad Company's (UPRR) Yuma Subdivision, crossing at-grade three existing public roads on U.S. government lands managed by the federal Bureau of Land Management (BLM). The roads are identified as BLM Road 606, BLM Road 607 and BLM Road 004, and

are located near Glamis in the County of Imperial. The proposed spur track would serve the proposed Mesquite Regional Landfill (MRL) as part of SDLAC's Waste-by-Rail Program. Trains originating in Los Angeles County carrying intermodal containers filled with municipal solid waste will interchange onto the spur track from UPRR tracks near the Glamis Station. The proposed spur track will have a length of 4.35 miles from UPRR interchange to the entrance of the MRL Intermodal Yard, where the containers will be removed from the trains and the municipal solid waste disposed of at the landfill.

One of the three roadways, BLM Road 607, is used by the U.S. Department of Defense to access the southern portion of the Chocolate Mountain Aerial Gunnery Range to support military exercises. With the exception of intermittent military use of the one roadway, all three roadways are infrequently used by the BLM personnel to patrol federal lands and by the public for access to designated recreational areas. The daily traffic count is estimated to be less than 5 vehicles per day. Train speeds are estimated to be at maximum of 40 miles per hour with an estimated one train per day, but permitted to operate at five trains per day.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) staff participated in diagnostic review meetings for these crossings, and recommended that each crossing be equipped with two Commission Standard 9 (flashing light signal assembly with automatic gate) warning devices, one on each approach to the crossing. Even though SDLAC is the applicant, the actual construction of the Commission Standard 9 warning devices will be done by UPRR.

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 must approve the project pursuant to 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, the lead agencies are the BLM[2] and the County 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.[3]

The County certified the Final Environmental Impact Statement and Environmental Impact Report (Final EIS/EIR) for the Mesquite Regional Landfill dated June 30, 1995 and filed a Notice of Determination

---

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

[2] The BLM is the lead agency for purposes of the National Environmental Policy Act (NEPA) 42 USC 4332 (2)(c) of 1969 as amended.

[3] CEQA Guidelines, Sections 15050(b) and 15096.

(NOD) in compliance with the Public Resources Code dated September 7, 1995. The NOD states that 1) the project will have significant effect on the environment; 2) an Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA; 3) mitigation measures were made a condition of the approval of the project; 4) a statement of overriding considerations was adopted for this project; and 5) findings were made pursuant to the provisions of CEQA. None of the identified impacts for the project and resultant mitigations relate to the items under the Commission's purview.

The BLM also approved a Record of Decision for the project on February 23, 1996. An Addendum to the Final EIS/EIR was prepared on September 10, 1996.

On August 9, 2000, the County Sanitation District No. 2 of Los Angeles County, in proposing to purchase the Mesquite Regional Landfill, considered the information contained in the FEIR/FEIS and made findings pursuant to Public Resources Code 21801 and CEQA Guidelines Section 15091 and determined that those findings represented its independent judgment.

The Commission reviewed and considered the Final FEIS/EIS and the August 2, 2000 findings of the County Sanitation District No. 2 of Los Angeles County[4] and finds them adequate for our decision-making purposes.

---

[4] The August 2, 2000 Report "Findings for the Acquisition of the Mesquite Regional Landfill" were filed with the CPUC on November 5, 2008 as an Amendment to the Application. No protest period for the Amendment was provided pursuant to the direction of Administrative Law Judge Michelle Cooke.

Filing Requirements and Staff Recommendation

The application is in compliance with the Commission's filing requirements, including Rule 3.9 of Rules of Practice and Procedure, which relates to construction of railroad tracks over existing roads. RCES has reviewed and analyzed the plans submitted with the application, and recommends that the Commission grant SDLAC's request.

Categorization and Need for Hearings

In Resolution ALJ 176-3212 dated April 24, 2008, and published in the Commission Daily Calendar on April 25, 2008, 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 176-3212.

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 April 17, 2008. There are no unresolved matters or protests; a public hearing is not necessary.

2. SDLAC requests authority, under Public Utilities Code Sections 1201-1205, for the construction of three at-grade spur track crossings across BLM Road 606, BLM Road 607 and BLM Road 004, which are owned by the U.S. government and managed by the BLM, near Glamis in the County of Imperial.

3. RCES participated in diagnostic review meetings for the three crossings and recommended installation of two Commission Standard 9 warning devices at each crossing.

4. The County acting as a lead agency under the CEQA and BLM acting as the lead agency under NEPA certified the Final EIS/EIR for the MRL dated June 30, 1995.

5. An Addendum to the Final EIS/EIR was prepared on September 10, 1996.

6. On August 9, 2000, the County Sanitation District No. 2 of Los Angeles County, in proposing to purchase the Mesquite Regional Landfill, considered the information contained in the FEIR/FEIS and made findings pursuant to Public Resources Code 21801 and CEQA Guidelines Section 15091 and determined that those findings represented its independent judgment.

7. The Commission is a responsible agency for this project, and has reviewed and considered the lead agencies' Final EIS/EIR, and the subsequent findings of the County Sanitation District No. 2 of Los Angeles County made in 2000 when it purchased the Mesquite Regional Landfill.

Conclusions of Law

1. The Final EIS/EIR prepared by the County and BLM as the documentation required by CEQA and NEPA, and the subsequent finding

of the County Sanitation District No. 2 of Los Angeles County for the project is adequate for our decision-making purposes.

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 Sanitation Districts of Los Angeles County is granted authorization for the construction of a railroad spur track, from Union Pacific Railroad Company's (UPRR) Yuma Subdivision tracks, crossing at-grade three existing public roads owned U.S. Government and managed by the federal Bureau of Land Management, near Glamis in the County of Imperial. The three crossings shall be identified as follows:

- BLM Road 606 shall be designated as CPUC Crossing Number 001B-1.11-C.
- BLM Road 607 shall be designated as CPUC Crossing Number 001B-1.91-C.
- BLM Road 004 shall be designated as CPUC Crossing Number 001B-2.63-C.

2. Each of the three crossings shall be equipped with two Commission Standard 9 (flashing light signal assembly with automatic gate) warning devices, one on each approach to the crossing.

3. Within 30 days after completion of the three new at-grade crossing, UPRR shall notify Commission's Rail Crossings Engineering Section (RCES) that the authorized work is completed by submitting a completed

Commission Standard Form G titled *Report of Changes at Highway Grade Crossings and Separations.*

4. 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.

5. A request for extension of the two-year authorization 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.

6. This application is granted as set forth above.

7. Application 08-04-024 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.