Decision _____

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

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| Application of the City of Los Angeles (Harbor Department) for an order authorizing an at-grade pedestrian crossing of the railroad right-of-way paralleling Signal Street, adjacent to the intersection of Signal Place, located in the San Pedro community of Los Angeles. | Application 08-05-029 (Filed May 22, 2008) |

# DECISION GRANTING AUTHORITY TO CITY OF LOS ANGELES-HARBOR DEPARTMENT TO CONSTRUCT AN AT-GRADE PEDESTRIAN- RAILROAD CROSSING

## Summary

This decision grants authority to the City of Los Angeles, Harbor Department (Harbor Department) to construct an at-grade pedestrian-railroad crossing over its own single track, adjacent to the intersection of Signal Street and Signal Place. The proposed CPUC Crossing Number is 121SY-6.20-CD, in the City of Los Angeles, Los Angeles County. The crossing is proposed as part of the Harbor Department's San Pedro Waterfront Enhancement Project, being undertaken as part of the revitalization of the San Pedro waterfront.

## Discussion

The Harbor Department owns the railroad line and contracts with the Pacific Harbor Line (PHL) to maintain and operate the rail line. PHL operates freight trains between the hours of 5 p.m. to 5 a.m. weekdays;

normally two train movements a day at speeds of 10 mph over the crossing.

The Harbor Department proposes to construct a 700 vehicle parking lot west of the tracks. The parking lot will serve as an overflow parking lot with anticipated occasional use on weekdays and increased use on the weekends. The pedestrian-railroad crossing is needed to provide access from the parking lot to the San Pedro Waterfront and Ports O' Call area. The Harbor Department estimates maximum of 1,000 pedestrians per day may travel through the crossing on peak days. Based on the proposed use of the parking lot and the railroad hours of operation, most use of the pedestrian crossing will occur when the railroad is not operating.

The Harbor Department will install fencing around the border of the parking lot to keep pedestrians off the railroad right of way. In addition, the Harbor Department proposes to install one Commission Standard 8 (flashing light signal assembly) warning device in combination with three self-closing pedestrian swing gates on each approach to the pedestrian-railroad crossing. The Harbor Department will also install CPUC Standard No. 1-D (pedestrian and bicycle railroad grade crossing sign, as defined in General Order 75-D) sign and a Standard R15-8 "LOOK" sign (as defined in the California Manual on Uniform Traffic Control Devices published by the California Department of Transportation) on each Commission Standard 8 warning device. On the west side of the tracks the swing gates will connect with the proposed 3 feet 7 inch high fencing at the parking lot. On the east side of the tracks the swing gates will connect with a 3 feet 7 inch high fenced section. The fence section will be located in alignment with a future crosswalk across Signal Street and will provide a queuing

area for pedestrians. At the entrance of the swing gates, detectable warning devices (tactile strips) will be installed.

The Harbor Department evaluated grade-separation alternatives including depressing the pedestrian crossing below the tracks, raising the pedestrian crossing above the tracks, raising the tracks above the pedestrian crossing, or lowering the tracks beneath the pedestrian crossing. The Harbor Department found that each of these scenarios to be non-feasible due to inadequate construction space available between the railroad right-of-way and the west side of Signal street, groundwater level, impacts on an existing street crossing which is located nearby to the south, close proximity of a sewage pump station and the impact on its inlet and outlet pipes.

## 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 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, the Harbor Department 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]

The Harbor Department prepared an Initial Study to evaluate the potential environmental impacts associated with the San Pedro Waterfront Enhancements Project. The study found that the project would result in potential significant impacts to the environment but with mitigations the impacts would be reduced to less than significant. Therefore, the Harbor Department adopted a Mitigated Negative Declaration. The Los Angeles Board of Harbor Commissioners certified the Mitigated Negative Declaration (MND) for the San Pedro Waterfront Enhancements on April 20, 2006.

Traffic and noise impacts are within the scope of the Commission's permitting process. Other than potentially significant impacts relating to construction noise, none of the other potentially significant impacts identified related specifically to the crossing or its construction. Although primarily relating to other aspects of the project, with respect to potentially significant noise impacts during construction from construction equipment identified in the Initial Study, the Commission finds that the Harbor

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

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

Department adopted feasible mitigation measures to either eliminate or substantially lessen those impacts to less than significant levels.

## 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 Commission grant the Harbor Department request.

## Categorization and Need for Hearings

In Resolution ALJ 176-3214, dated May 29, 2008, and published in the Commission Daily Calendar on May 30, 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 176-3214.

## 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 May 29, 2008. There are no unresolved matters or protests. A public hearing is not necessary.

2. The Harbor Department requests authority, under Public Utilities Code Sections 1201-1205, to construct a new pedestrian-railroad at-grade crossing over its own tracks.

3. The Harbor Department is the lead agency for this project under CEQA, as amended

4. The Harbor Department adopted an MND for the project.

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

## Conclusions of Law

1. The Initial Study and MND, as required by CEQA and are prepared by the Harbor Department, are adequate for our decision-making purposes.

2. We adopt the Harbor Department's findings and required mitigations contained in its MND.

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 Los Angeles, Harbor Department (Harbor Department) is authorized to construct a new at-grade pedestrian-rail crossing, identified as CPUC Crossing Number 121SY-6.20-CD.

2. The Harbor Department shall install two Commission Standard 8 (flashing light signal assembly) warning devices on each approach to the at-grade pedestrian-railroad crossing. The Harbor Department shall install Commission Standard No. 1-D (pedestrian and bicycle railroad grade crossing sign, as defined in General Order 75-D) sign and R15-8 "LOOK" sign (as defined in the California Manual on Uniform Traffic Control Devices, published by California Department of Transportation) on each Commission Standard 8.

3. The Harbor Department shall also install three self-closing pedestrian swing gates in combination with the Commission Standard 8 warning devices on each approach to the pedestrian-railroad crossing. At the entrance of the swing gates the Harbor Department shall install detectable warning (tactile strips).

4. Harbor Department shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices, and with all required mitigation measures in the Mitigated Negative Declaration.

5. Within 30 days after completion, the Harbor Department shall notify the Commission's Rail Crossing 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*.

6. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not satisfied. 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 08-05-029 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.