

Decision 09-09-019 September 10, 2009

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

In the Matter of the Application of the Exposition Metro Line Construction Authority for an order authorizing the construction of a two-track grade-separated crossing for the Exposition Boulevard Corridor Light Rail Transit Line across (1) National Boulevard, and (2) Washington Boulevard, located in the City of Culver City, in the County of Los Angeles, California.

Application 09-03-017  
(Filed March 18, 2009)

**DECISION GRANTING AUTHORIZATION TO EXPOSITION METRO LINE CONSTRUCTION AUTHORITY TO CONSTRUCT TWO GRADE-SEPARATED CROSSINGS FOR THE EXPOSITION BOULEVARD CORRIDOR LIGHT RAIL TRANSIT LINE IN CULVER CITY, COUNTY OF LOS ANGELES**

**Summary**

This decision grants the Exposition Metro Line Construction Authority (Expo Authority) authorization to construct double-track grade-separated crossings (crossing) across (1) National Boulevard and (2) Washington Boulevard; both crossings are located in the City of Culver City, Los Angeles County.

**Discussion**

The Expo Authority was created by legislation<sup>1</sup> for the specific purpose of constructing the Exposition Corridor Light Rail Transit Line (Expo Line), a new 8½-mile light rail transit extension line that will run between downtown Los Angeles and Culver City. The line will be powered by electricity supplied by overhead catenary lines, double-tracked, and for much of the route will run on an existing (now unused) rail right-of-way in the center median of Exposition Boulevard.

The Expo Line will be turned over to the Los Angeles County Metropolitan Transportation Authority (MTA) for ongoing operations once construction is completed. Expo Authority, MTA and the City of Los Angeles entered into a Master Cooperative Agreement that provides, among many other elements, the concurrence of these agencies regarding the design, construction, operation and maintenance of the subject crossings.

Expo Authority proposes to construct a two-track grade separation structure approximately 1,700 feet long, extending over both National Boulevard and Washington Boulevard as part of its Mid City/Exposition Light Rail Transit Project. The structure begins just east of National Boulevard and terminates to the west of Washington Boulevard and will contain the Venice/Robertson aerial station west of Washington Boulevard. The structure will be 17 feet above both roadways and there will be a minor widening on the north side of National Boulevard to install a proposed median to accommodate a support column for the structure. Washington Boulevard will also be widened underneath the structure but there will not be a median column on the street. The aerial structure will

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<sup>1</sup> Senate Bill 504 (Kuehl); 2003. Pub. Util. Code § 132600 *et seq.*

provide for an emergency walkway on the outside or between the two tracks, over its entire length.

## **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 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>2</sup> or the one with the greatest responsibility for supervising or approving the project as a whole.<sup>3</sup> Here, the MTA is the lead agency for this project because the MTA is constructing the structure for its system extension and will be responsible for the costs of ongoing maintenance and operation after construction, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. As a responsible agency under CEQA, the Commission must consider the lead

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

<sup>3</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

agency's environmental documents and findings before acting on or approving this project.<sup>4</sup>

The MTA has prepared a combined Final Environmental Impact Statement/Environmental Impact Report (Final EIS/EIR) for the Expo Line project to comply with the National Environmental Policy Act (NEPA) (42 U.S.C. Section 4321 et seq.) and CEQA. Additionally, since federal funding is involved in this project, the Final EIS/EIR was submitted to the Federal Transit Administration (FTA) for its review and approval. The FTA issued a Record of Decision (ROD), approving the project and the Final EIS/EIR, on February 27, 2006.

Additionally, the MTA filed a Notice of Determination (NOD) for the project on December 16, 2005, indicating the project will have a significant effect on the environment. The NOD indicates that an EIR was prepared for the project, and that mitigation measures were made a condition of approval of the project. However, not all impacts could be mitigated to a less-than-significant level, and therefore the MTA adopted a Statement of Overriding Considerations (SOC) in approving the project. Impacts which could not be mitigated to less than significant were both related to construction of the structure, construction traffic impacts and construction air quality impacts. Relating to these impacts, the MTA determined that the project has been designed in a manner that reduces impacts to the maximum extent reasonably feasible, while achieving the specific economic, legal, social and technological benefits the project promises.

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<sup>4</sup> CEQA Guidelines, Sections 15050(b) and 15096.

The Commission reviewed and considered the Final EIS/EIR and ROD, as well as the NOD and SOC, and finds them adequate for our decision-making purposes.

### **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 highway across a railroad.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section has inspected the site of the proposed crossing, 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 176-3231 dated March 26, 2009, and published in the Commission Daily Calendar on March 27, 2009, 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 176-3231.

### **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 March 20, 2009. There are no unresolved matters or protests. A public hearing is not necessary.

2. The Expo Authority was created by legislation for the specific purpose of constructing the Expo Line, a new 8½-mile light rail transit extension line that will run between downtown Los Angeles and Culver City, which will be turned over to the MTA for ongoing operations once construction is completed.

3. The Expo Authority requests authority, under Public Utilities Code Sections 1201-1205 and 99152, to construct a two-track grade-separated crossing for the Expo Line across (1) National Boulevard and (2) Washington Boulevard, located in the City of Culver City, in the County of Los Angeles.

4. The MTA is the lead agency for this project under NEPA and CEQA, as amended.

5. The MTA prepared a combined Final EIS/EIR for the project.

6. The MTA adopted a NOD and SOC pursuant to CEQA in approving the project.

7. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's Final EIS/EIR and findings.

### **Conclusions of Law**

1. The Final EIS/EIR prepared by the MTA as the documentation required by CEQA 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.

## **ORDER**

**IT IS ORDERED** that:

1. The Exposition Metro Line Construction Authority (Expo Authority) is authorized to construct a two-track grade-separated crossing across (1) National Boulevard and (2) Washington Boulevard, in the City of Culver City, County of Los Angeles, for the Exposition Boulevard Corridor Light Rail Transit Line. The new grade-separated crossings shall be identified as (1) National Boulevard-CPUC Crossing No. 84S-107.32-B and (2) Washington Boulevard-CPUC Crossing No. 84S-107.40-B.

2. The Expo Authority shall notify the Commission's Consumer Protection and Safety Division – Rail Crossing Engineering Section (RCES) at least five (5) business days prior to opening the crossing. Notification should be made to [rces@cpuc.ca.gov](mailto:rces@cpuc.ca.gov).

3. Within 30 days after completion of the work under this order, the Expo Authority shall notify RCES 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.

4. The Expo Authority shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

5. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not satisfied. The

Commission may revoke or modify this authorization if public convenience, necessity, or safety so require.

6. A request for extension of the three-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.

7. This application is granted as set forth above.

8. Application 09-03-017 is closed.

This order becomes effective 30 days from today.

Dated September 10, 2009, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners