

Decision 09-10-043 October 29, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Sacramento to construct a new grade separated overcrossing at 5th Street, a new grade separated overcrossing at 6th Street, a new west pedestrian/bicycle tunnel (grade separated undercrossing) to extend from the south side of track relocation right-of-way to the north side of the CSRM track, and a new central tunnel (grade separated undercrossing) from the north side of the existing depot to the top of the new central tunnel north access all in the vicinity of Mile Post No. 88.5 in the Roseville Service Unit Martinez Subdivision of the Union Pacific Railroad in an unincorporated area of the City of Sacramento, State of California.

Application 09-08-014
(Filed August 20, 2009)

**DECISION GRANTING AUTHORIZATION TO THE CITY OF SACRAMENTO
TO CONSTRUCT TWO NEW GRADE-SEPARATED HIGHWAY-RAIL
CROSSINGS AND TWO NEW GRADE-SEPARATED PEDESTRIAN
TUNNELS ACROSS THE TRACKS OF THE UNION PACIFIC
RAILROAD IN THE CITY OF SACRAMENTO**

Summary

This decision grants the City of Sacramento (City) authorization to construct two new grade-separated highway-rail crossings and two new grade-separated pedestrian tunnels across the tracks of Union Pacific Railroad (UPRR) in the City, Sacramento County. The new crossings will be identified as CPUC Crossing Nos. 001A-89.13-A (5th Street), 001A-89.19-A (6th Street), 001A-88.86-B (West Tunnel), and 001A-89.04-B (Central Tunnel).

Discussion

The City proposes to construct two new grade-separated highway-rail crossings over tracks owned by UPRR and operated over by Capitol Corridor Joint Powers Authority, Amtrak, and UPRR by extending 5th Street and 6th Street northward from their current endpoints near H street and to construct two new pedestrian/bicycle tunnels under the tracks as part of the Sacramento Railyards Redevelopment Project.

As part of the project, the City will shift the existing UPRR mainline tracks 150 – 300 feet to the north to where a future Amtrak passenger station and intermodal facility will be built. Once the new tracks are placed in service, the old tracks will be removed.

The new 5th Street grade- separated overcrossing will be a two-lane, 114 feet long, 72 feet wide crossing of the UPRR tracks just east of the future intermodal facility. The grade separation is necessary to account for high-train traffic on the rail corridor as well as the high-road traffic predicted on 5th Street due to the new development in downtown Sacramento. The crossing will span the two UPRR mainline tracks and four station tracks and be classified as a Major Collector roadway.

The new 6th Street grade-separated overcrossing will be a two-lane, 217 feet long, 56 feet wide crossing of the UPRR tracks just east of 5th Street and the future intermodal facility. The grade separation is necessary to account for high-train traffic on the rail corridor as well as the high-road traffic predicted on 6th Street due to the new development in downtown Sacramento. The crossing will span the two UPRR mainline tracks and four station tracks and be classified as a Major Collector roadway.

The new Central Tunnel will be a 340 feet long, 23 feet wide cast-in-place pedestrian/bicycle tunnel underneath the UPRR tracks that will allow safe travel to and from the old Amtrak Depot under the tracks to the future intermodal facility.

The new West Tunnel will be a 250 feet long, 20 feet wide cast-in-place pedestrian/bicycle tunnel underneath the UPRR tracks that will allow safe movement to and from the south side of the track relocation right-of-way to the north side of the right-of-way near I-5. The new West Tunnel will replace the existing West Tunnel at the current Amtrak station. The existing West Tunnel will be demolished upon completion of the track relocation and new tunnel.

Rail service at these proposed crossings will be approximately 16 passenger trains per day and 32 freight trains per day at a maximum speed of 50 mph.

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,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, the City is the lead agency for this project because the project is within their jurisdiction and subject to their review and approval 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 agency's environmental documents and findings before acting on or approving this project.³

On August 20, 2007, the City filed the Railyards Specific Plan Draft Environmental Impact Report (DEIR) with the State Clearinghouse. Between August 20, 2007 and October 4, 2007, the City received written and oral comments on the DEIR. In November 2007, the City issued its Railyards Specific Plan Final Environmental Impact Report (FEIR) of which these new four grade-separated crossings are a part. The City prepared an Initial Study (IS) and adopted a Mitigated Negative Declaration (MND) on May 11, 2009. A Notice of Determination (NOD) filed with the Sacramento County Clerk on June 8, 2009, indicated the IS and MND had been prepared for the project, and stated that the Railyards project as a whole will have a significant impact on the environment and that mitigation measures were made a condition of the approval of the project. With respect to the new four grade-separated crossings requested in this application, noise from construction was identified as having a potentially

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

² CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

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

significant impact on the environment. Mitigation measures were put in place bringing the impact to less-than-significant levels. There were no other impacts identified related to transportation and safety for the new four grade-separated crossings or their construction.

The Commission reviewed and considered the City's IS, NOD and MND as they related to the four new grade-separated crossings and finds them adequate for our decision-making purposes.

Filing Requirements and Staff Recommendations

This 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 inspected the site of the proposed crossings, has reviewed and analyzed the proposed crossings, and recommends that the requested authority to construct the subject crossings be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3240, dated September 10, 2009, and published in the Commission's Daily Calendar on September 11, 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 176-3240.

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 August 27, 2009. There are no unresolved matters or protests. A public hearing is not necessary.

2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct two new grade-separated highway-rail crossings over tracks owned by UPRR and operated over by Capitol Corridor Joint Powers Authority, Amtrak, and UPRR and to construct two new pedestrian/bicycle tunnels under the tracks in the City, Sacramento County. The new crossings will be identified as CPUC Crossing Nos. 001A-89.13-A (5th Street), 001A-89.19-A (6th Street), 001A-88.86-B (West Tunnel), and 001A-89.04-B (Central Tunnel).

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

4. On May 11, 2009, the City prepared an MND for this project and issued an NOD on June 8, 2009, that stated that the Railyards project as a whole will have a significant impact on the environment and that mitigation measures were made a condition of the approval of the project. Noise from construction was identified as having a potentially significant impact on the environment. Mitigation measures have been put in place that brings the impact to less-than-

significant levels. There were no other impacts identified that relate to transportation and safety for the new four grade-separated crossings or their construction.

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

6. The 5th Street, 6th Street, West Tunnel and Central Tunnel grade separations, with mitigations in place for noise during construction, will not have a significant effect on the environment.

Conclusions of Law

1. The Initial Study, Notice of Determination and Mitigated Negative Declaration, as required by CEQA and as prepared by the City, are 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 City of Sacramento (City) is authorized to construct two new grade-separated highway-rail crossings over tracks owned by Union Pacific Railroad and operated over by Capitol Corridor Joint Powers Authority, Amtrak, and Union Pacific Railroad and to construct two new pedestrian/bicycle tunnels under the tracks as part of the Sacramento Railyards Redevelopment Project in the City of Sacramento, Sacramento County. The new crossings will be identified as CPUC Crossing Nos. 001A-89.13-A (5th Street), 001A-89.19-A (6th Street), 001A-88.86-B (West Tunnel), 001A-89.04-B (Central Tunnel).

2. The new 5th Street overcrossing shall be a two-lane, 114 feet long, 72 feet wide grade-separated crossing of the Union Pacific Railroad tracks just east of the future intermodal facility. The crossing shall span the two Union Pacific Railroad mainline tracks and four station tracks.

3. The new 6th Street overcrossing shall be a two-lane, 217 feet long, 56 feet wide grade-separated crossing of the Union Pacific Railroad tracks just east of 5th Street and the future intermodal facility. The crossing will span the two Union Pacific Railroad mainline tracks and four station tracks.

4. The new West Tunnel shall be a 250 feet long, 20 feet wide cast-in-place pedestrian/bicycle tunnel underneath the Union Pacific Railroad tracks to allow safe movement to and from the south side of the track relocation right-of-way to the north side of the right-of-way near I-5. The new West Tunnel shall replace the existing West Tunnel. The existing West Tunnel shall be demolished upon completion of the new tunnel.

5. The new Central Tunnel shall be a 340 feet long, 23 feet wide cast-in-place pedestrian/bicycle tunnel underneath the Union Pacific Railroad tracks to allow safe travel to and from the old Amtrak Depot under the tracks to the future intermodal facility.

6. The City shall notify the Commission's Consumer Protection and Safety Division - Rail Crossing Engineering Section at least five (5) business days prior to opening the crossings. Notification should be made to rces@cpuc.ca.gov.

7. Within 30 days after completion of the work under this order, the Union Pacific Railroad shall notify Rail Crossing Engineering Section 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 as outlined on the web page.

8. The City of Sacramento shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

9. 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.

10. A request for extension of the three-year authorization period must be submitted to Rail Crossing Engineering Section at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

11. The application is granted as set forth above.

12. Application 09-08-014 is closed.

This order becomes effective 30 days from today.

Dated October 29, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners