

Decision 10-03-015 March 11, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of the City of Sacramento in cooperation with California State Railroad Museum (CSRM) and the California State Parks to construct a permanent at-grade pedestrian crossing located at railroad mile post 0.80 in the City of Sacramento, County of Sacramento, California.

Application 09-02-006
(Filed February 6, 2009;
amended January 8, 2010)

DECISION GRANTING AUTHORIZATION TO THE CITY OF SACRAMENTO TO CONSTRUCT A NEW AT-GRADE PEDESTRIAN CROSSING ACROSS THE TRACKS OF THE CALIFORNIA STATE RAILROAD MUSEUM IN THE CITY OF SACRAMENTO, SACRAMENTO COUNTY

Summary

This decision grants the City of Sacramento (City) authorization to construct the new at-grade pedestrian crossing across the tracks of California State Railroad Museum (CSRM) in the City, in Sacramento County. The crossing will be identified as CPUC Crossing No. 093-0.80-D.

Discussion

The proposed project involves the construction of a new single track at-grade pedestrian-only crossing across the tracks of CSRM at the future end of R Street as part of the Docks Riverfront Parkway Promenade Project (“Docks Project”). The Project is a City infrastructure project that would link the City Riverfront area, Old Sacramento, and Marina/Miller Park, consistent with the Sacramento Riverfront Master Plan that was adopted by the City in July, 2003. R Street does not currently exist between Front Street and the new promenade that

will be built as part of a future segment of the Docks Project. The section of R Street between Front Street and the proposed crossing will be built in a future segment of the Docks Project redevelopment.¹ The east side of the crossing will be blocked off and no pedestrians will use the crossing until the future R Street extension is constructed. When R Street is built out, it will end and transform into a pedestrian walkway prior to the proposed crossing.

The project will create a new 20-foot wide pedestrian path across CSRM tracks. The proposed warning devices consist of one Commission Standard 8 (flashing light signal assembly) warning devices, with backlights, installed at the intersection 12 feet off centerline of the crossing in each direction of travel. The crossing STOP bars will be tactile paver stones that will be placed across the pathway adjacent to the warning device on both sides of the tracks. The crossing approach surface between the tactile paver stones and the tracks will be a different color than the surrounding pathway to further identify the crossing. Removable bollards, to allow emergency vehicle access, will also be placed across the pathway. The track crossing surface shall be concrete panels. California Manual on Uniform Traffic Control Devices W10-1 railroad advance warning signs will be placed in both approach directions. CSRM freight rail traffic is approximately 2 trains per week, occurring on weekdays, at a maximum speed of 10 mph. From April through September, CSRM additionally runs approximately 8 excursion trains per day on weekends and holidays.

¹ Both the new promenade, and the conceptual extension of R Street to the “pinch point” where Front Street comes close to the rail line, are part of the scope of the Initial Study/Mitigated Negative Declaration provided for the Docks Project.

Pursuant to discussions between all parties and Commission Staff, the City filed an amendment to its application to incorporate a monitoring and reporting phase after the opening of the crossing. CSRM will log and conduct a study of grade-crossing violations and any near-miss incidents between moving trains or locomotives and pedestrians at or in the vicinity of the “Q” and “R” Street pedestrian/bicycle grade crossings. The purpose of this study is to evaluate the effectiveness of the warning devices and whether they effectively control pedestrians along the promenade. Incident reporting will include “a condition or behavior by a person that is dangerous to that person or others in the presence of a train or engine OR is dangerous to the train, engine, its crew, or passengers.” This data collection will take place for one year after the crossing opens. After one year, the data collected and results of the evaluation will be provided in a report to Commission Staff to demonstrate that the existing warning devices are sufficient. Should any concerns be identified, Commission Staff may request the City make changes to the crossing, and if necessary, bring the matter back before the Commission.

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,² or the one with the greatest responsibility for supervising or approving the project as a whole.³ Here, the City is the lead agency for this project because it is carrying out the project 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.⁴

Pursuant to CEQA, the City prepared a document titled "Initial Study/Mitigated Negative Declaration for the Docks Riverfront Parkway Promenade" dated February 2008. This Initial Study/Mitigated Negative Declaration (IS/MND) stated that for the project as a whole, all identified environmental impacts, when mitigations are applied, would not have a significant impact on the environment. In regard to transportation and noise, all identified environmental impacts were determined to be less than significant. All identified safety impacts related to the proposed crossing are either less than significant, or have been mitigated to less-than-significant levels by the actions proposed. On July 15, 2008, the City Council adopted the IS/MND for the Docks Project.⁵

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

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

⁴ CEQA Guidelines, Sections 15050(b) and 15096.

⁵ City Resolution Number 2008-488 and Agency Resolution Number 2008-052.

Traffic and noise impacts are within the scope of the Commission's permitting process. We will adopt the City's environmental findings for purposes of our approval.

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 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 two years.

Categorization and Need for Hearings

In Resolution ALJ 176-3229, dated February 20, 2009, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. An amendment to this application was filed on January 8, 2010, and published in the Commission's Daily Calendar on January 19, 2010, regarding a change in the design of the bollards at the crossing and the addition of a procedure for the CSRM to report unsafe incidents at the crossing for a period of one year after the crossing opens. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

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 23, 2009. An amendment to the application was published in the Commission's Daily Calendar on January 19, 2010. 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 a new at-grade highway-rail crossing at R Street. The crossing will be identified as CPUC Crossing No. 093-0.80-D.

3. The City, acting as lead agency pursuant to CEQA prepared an IS/MND, the scope of which covered the Docks Project, which included the crossing being considered by the Commission. It was determined that with mitigations the project will have no significant impact on the environment.

4. The Commission is a responsible agency for this project and has reviewed and considered the City's environmental documentation and MND.

5. With respect to traffic and noise impacts, the Commission adopts the City's environmental findings.

Conclusions of Law

1. The Initial Study and Mitigated Negative Declaration, prepared by the City, as the documentation required by CEQA for the project 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 is authorized to construct a new at-grade pedestrian crossing at the future location of an R Street pedestrian pathway. The crossing will be identified as CPUC Crossing No. 093-0.80-D.
2. The crossing shall be equipped with two Commission Standard 8 (flashing light signal assembly) warning devices, one on each approach to the crossing installed at the intersection 12 feet off centerline of the crossing in each direction of travel. Tactile pavers shall be placed across the pathway adjacent to the warning device on both sides of the tracks. Removable bollards, to allow emergency vehicle access, shall also be placed across the pathway. The track crossing surface shall be concrete panels. California Manual on Uniform Traffic Control Devices W10-1 railroad advance warning signs shall be placed in both approach directions. All pavement markings must comply with California Manual on Uniform Traffic Control Devices guidelines.
3. Within 13 months from the date the crossing is opened, the California State Railroad Museum shall supply a report to the Director of the Commission's Consumer Protection and Safety Division, that identifies all grade crossing violations and any near-miss incidents between moving trains or locomotives

and pedestrians at or in the vicinity of the subject pedestrian/bicycle grade crossings during the 12 month period following opening of the crossing.

4. The City of Sacramento shall notify the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section at least five (5) business days prior to opening the crossing. Notification should be made to rces@cpuc.ca.gov.

5. Within 30 days after completion of the work under this order, the California State Railroad Museum shall notify Rail Crossings 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.

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

7. This authorization shall expire if not exercised within two 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.

8. A request for extension of the two-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.

9. This application is granted as set forth above.
10. Application 09-02-006 is closed.

This order becomes effective 30 days from today.

Dated March 11, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners