

Decision 10-08-005 August 12, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California Department of Transportation for an order authorizing the construction of a single grade separation structure on Sandy Mush Road (Proposed CPUC No. 001B-162.10-A) (per General Order 26-D) over the Union Pacific Railroad; alter existing grade crossings at Vista Avenue (CPUC No. 001B-163.90, DOT 765943X) and Sandy Mush Road (CPUC No. 001B-162.20, DOT 765942R) (per General Order 88-B), located near the City of Merced, County of Merced, State of California.

Application 10-02-008
(Filed February 5, 2010)

DECISION GRANTING AUTHORIZATION TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION TO CONSTRUCT A GRADE-SEPARATED CROSSING OVER THE TRACK AND RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD AT SANDY MUSH ROAD, AND TO ALTER EXISTING UNION PACIFIC RAILROAD AT-GRADE CROSSINGS AT VISTA AVENUE AND SANDY MUSH ROAD IN THE COUNTY OF MERCED

Summary

This decision grants the request of the California Department of Transportation for authority to construct a grade-separated crossing over the track and right-of-way of the Union Pacific Railroad (UPRR) at Sandy Mush Road, and to alter existing UPRR at-grade crossings at Vista Avenue (CPUC Crossing No. 001B-163.90, DOT 765943X) and Sandy Mush Road (CPUC Crossing No. 001B-162.20, DOT 765942R), in the County of Merced. The new grade-separated crossing will be identified as CPUC Crossing No. 001B-162.10-A.

Discussion

The proposed project has two parts: the first part of the project involves the construction of a grade-separated (overhead) crossing approximately 800 feet north of the existing Sandy Mush Road at-grade crossing, which will remain in place. This grade-separated crossing will be approximately 260 feet in length and cross a single mainline UPRR track and the realigned western State Route (SR) 99 frontage road, joining the new alignment of SR 99, where a freeway interchange will be constructed. The grade-separation structure and SR 99 freeway interchange will join Sandy Mush Road on the west with Plainsburg Road on the east, in effect connecting the west side of the County of Merced (County) to the east side, south of the City of Merced. The grade-separated structure will provide a 12-foot travel lane and an 8-foot shoulder in both directions.

The proposed project is part of the overall Plainsburg/Arboleda Freeway Project. The Plainsburg/Arboleda Freeway Project proposes to convert SR 99 from a four-lane expressway to a six-lane freeway on a new alignment (shifting the freeway to the east of the existing expressway), extending from the Madera/County line to McHenry Road in the County. Typically, divided expressways, which have intersections that allow turning movements and have high-traffic volumes, also have the potential for a greater occurrence of rear-end and broadside collisions, as vehicles access to and from local roads. This is exactly the situation that currently exists in the proposed project area as vehicles try to access SR 99 to and from Sandy Mush Road and Vista Avenue. Within the overall project area, agricultural commodities are routinely transported to market in trucks with trailers, which are currently unable to completely clear the tracks while waiting for gaps in traffic on SR 99. Compounding this problem is

the effects of fog that appears in the San Joaquin Valley during the winter months. Poor visibility, excessive speed, and the additional time required for a truck with a trailer to safely clear an intersection when making a left turn, can all contribute to collisions. The conversion of the existing expressway into a freeway will reduce collisions and improve overall safety for the traveling public on SR 99 by eliminating the turning movements and crossing of the expressway.

These improvements together will improve roadway safety in the proposed and overall project areas, while also improving the flow of inter-regional traffic, allowing for increases in traffic due to development, and the traffic demands of the nearby University of California Merced Campus.

The second part of this proposed project, which is also part of the overall Plainsburg/ Arboleda Freeway Project, involves the alteration of the existing UPRR at-grade crossings at Vista Avenue (CPUC Crossing No. 001B-163.90, DOT 765943X) and Sandy Mush Road (CPUC Crossing No. 001B-162.20, DOT 765942R) which will remain at their present locations. Both crossings are immediately adjacent to existing SR 99, and their roadways currently provide access to SR 99 through at-grade intersections (such as discussed above). As a part of this project, the potentially unsafe at-grade intersections that these local roadways form with SR 99 will be eliminated and the roadway east of both of these crossings will be altered by teeing into a new SR 99 west frontage road, which will utilize part of the existing SR 99 southbound lanes. The new west frontage road will be relocated in an eastward direction, away from the railroad tracks at both of these crossings. This will increase the distance between the track and the stop line at both of the adjacent intersections to provide a vehicle storage distance of approximately 80 feet between the track and the intersections. This feature will provide improved safety by allowing a truck with a trailer (18-

wheeler) to be positioned at the intersection STOP sign with the entire trailer off the railroad tracks.

Both crossings are currently equipped with two Commission Standard 9 (flashing light signal assembly with automatic gate arm) warning devices, which will be retained. Each crossing shall have, as required by the California Manual on Uniform Traffic Control Devices (CAMUTCD), at-grade crossing pavement markings on both approaches and a W10-1 railroad crossing advance warning sign on the eastbound traffic approach. In lieu of a W10-1 sign installed on both crossings' westbound approach, because there is less than 100 feet between the track and the intersection with the SR 99 west frontage road, parallel approaches on the SR 99 west frontage road (in both directions) at both crossings shall have as required by CAMUTCD, a W10-3 railroad crossing advance warning sign installed on the shoulder of the roadway.

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 California Department of Transportation (Caltrans) is the lead agency for this project because they intend to fund and construct the proposed grade-separated crossing and alter the noted existing at-grade crossings. 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 Environmental impacts related to safety, traffic (transportation), and noise are within the scope of the Commission's permitting process.

Pursuant to CEQA and the National Environmental Policy Act (NEPA),⁴ Caltrans and the Federal Highway Administration (FHWA) prepared a joint environmental documentation titled *Plainsburg/Arboleda Freeway Project, Environmental Assessment with Finding of No Significant Impact (FONSI)/Final Environmental Impact Report (FEIR)*,⁵ which identifies environmental impacts and

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.

⁴ 42 USC 4332 (2)(c) of 1969 as amended. Projects undertaken in California that utilize federal funds, require discretionary federal approval, or are undertaken by federal agencies are subject to both NEPA and CEQA.

⁵ FWWA approved the FONSI on June 30, 2006. Caltrans approved the FEIR June 26, 2006.

associated mitigation measures related to the construction performed in the Plainsburg/ Arboleda Freeway Project, of which this project is a part.

In the FEIR, there are two impacts that are identified as significant effects on the environment due to the construction performed in the overall Plainsburg/ Arboleda Freeway Project: loss of farmland and noise, however, no significant impacts related to safety or traffic (transportation) are identified for the proposed project. Moreover, the adverse noise impacts identified for the overall project, through mitigation, are reduced to less-than-significant levels where Caltrans has determined mitigation to be feasible and reasonable. The adverse noise impacts identified in the overall project will be generated by vehicles on the freeway near residential areas and by construction equipment during construction of the freeway. These impacts will be mitigated by soundwalls where feasible and reasonable, and by equipment noise control, and administrative measures.

The Commission reviewed and considered the *Plainsburg/Arboleda Freeway Project, Environmental Assessment with FONSI/ FEIR* and finds it 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 the 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 grade-separated crossing and the existing at-grade crossings, has reviewed and analyzed the plans submitted with the application, and recommends that the

requested authority to construct the subject crossing and alter the noted existing at-grade crossings be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3249 dated February 25, 2010, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. 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 9, 2010. There are no unresolved matters or protests. A public hearing is not necessary.

2. Caltrans requests authority, under Public Utilities Code Sections 1201-1205, to construct a grade-separated crossing over the track and right-of-way of UPRR at Sandy Mush Road, and alter the existing UPRR at-grade crossings at Vista Avenue, CPUC Crossing No. 001B-163.90, DOT No. 765943X, and Sandy

Mush Road, CPUC Crossing No. 001B-162.20, DOT No. 765942R, in the County. The new grade-separated crossing will be identified as CPUC Crossing No. 001B-162.10-A.

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

4. Caltrans and FHWA prepared, pursuant to CEQA and NEPA, a joint FEIR/FONSI. Caltrans approved the FEIR on June 26, 2006. FHWA approved and adopted the FONSI on June 30, 2006.

5. The Commission is a responsible agency for this project and has reviewed and considered the joint FEIR/FONSI prepared by the lead agencies.

6. In the FEIR, it has been determined that the overall Plainsburg/ Arboleda Freeway Project, of which this project is a part, will have a significant effect on the environment due to the loss of farmland. However, no significant impacts related to safety, traffic (transportation).

7. Adverse noise impacts identified in the overall Plainsburg/ Arboleda Freeway Project will be generated by vehicles on the freeway near residential areas and by construction equipment during construction of the freeway. These impacts will be mitigated by soundwalls where feasible and reasonable, by equipment noise control, and by administrative measures.

8. The proposed project, due to the loss of farmland, will have a significant effect on the environment. However, where the lead agencies have determined them to be reasonable and feasible, mitigations have been adopted to reduce noise impacts to less-than-significant levels.

9. Safety, traffic, and noise are within the scope of the Commission's permitting process.

Conclusions of Law

1. The joint FEIR/FONSI, prepared pursuant to CEQA and NEPA, 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 California Department of Transportation is authorized to construct a grade-separated crossing over the track and right-of-way of the Union Pacific Railroad at Sandy Mush Road, and alter the existing Union Pacific Railroad at-grade crossings at Vista Avenue, CPUC Crossing No. 001B-163.90, DOT No. 765943X, and Sandy Mush Road, CPUC Crossing No. 001B-162.20, DOT 765942R, in the County of Merced. The new grade-separated crossing will be identified as CPUC Crossing No. 001B-162.10-A. A DOT No. will be assigned after construction.
2. The at-grade crossings at Sandy Mush Road and Vista Avenue shall remain in place, each equipped with two Commission Standard 9 warning devices, and shall each have as required by the California Manual on Uniform Traffic Control Devices, at-grade crossing pavement markings on both approaches, a W10-1 at-grade crossing advance warning sign on the shoulder of the eastbound approach, and a W10-3 at-grade advance warning sign on the shoulder of both west frontage road parallel approaches.
3. The California Department of Transportation shall notify the Commission's Consumer Protection and Safety Division - Rail Crossings

Engineering Section at least 5 business days prior to opening the grade-separated crossing. Notification should be made to rces@cpuc.ca.gov.

4. Within 30 days after completion of the work under this order, the California Department of Transportation shall notify the Commission's Consumer Protection and Safety Division - 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 Commission's 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.

5. The California Department of Transportation shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

6. 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.

7. A request for extension of the three-year authorization period must be submitted to the Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

8. The application is granted as set forth above.

9. Application 10-02-008 is closed.

This order becomes effective 30 days from today.

Dated August 12, 2010, at San Francisco, California.

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