

Decision 11-01-035 January 27, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Southern California Regional Rail Authority for authority to construct a pedestrian at-grade crossing for the Vincent Grade/Acton Station, Metrolink Valley Subdivision Mile Post 61.4, proposed CPUC Number VY-61.40-D; USDOT 932896C.

Application 10-03-008
(Filed March 5, 2010)

DECISION GRANTING AUTHORIZATION TO THE SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY TO CONSTRUCT A PEDESTRIAN AT-GRADE CROSSING FOR THE VINCENT GRADE/ACTON STATION OVER THE METROLINK VALLEY SUBDIVISION TRACKS IN THE UNINCORPORATED COMMUNITY OF ACTON, COUNTY OF LOS ANGELES

Summary

This decision grants the Southern California Regional Rail Authority authorization to construct one new pedestrian at-grade crossing for the Vincent Grade/Acton Station across its Valley Subdivision and Vincent Siding tracks located in the unincorporated community of Acton, in the County of Los Angeles. The new crossing is to be identified as CPUC Crossing No. 101VY-61.40-D.

Discussion

Crossing

The Southern California Regional Rail Authority ("SCRRA") proposes to construct one new pedestrian at-grade crossing (crossing) at the southern end of the Vincent Grade/Acton Station. The crossing is part of SCRRA's project to

modify the Station by adding a second platform east of the existing station platform and two sets of tracks. The pedestrian crossing would cross SCRRA's Valley Subdivision main line track and the Vincent Siding track at-grade at approximately milepost 61.4, and the proposed new CPUC Crossing No. would be 101VY-61.40-D. The United States Department of Transportation No. would be 932896C.

SCRRA's Valley Subdivision line tracks currently host Metrolink Commuter train service. Approximately 18 Metrolink trains per day operate over these tracks at a maximum speed of 49 MPH. In addition, the Union Pacific Railroad Company (UPRR) operates freight service on the SCRRA Valley Subdivision tracks. UPRR operates approximately 4 trains per day at a maximum speed of 35 MPH.

The proposed at-grade crossing would cross two sets of tracks and connect the southern ends of the existing station west platform and the proposed station east platform. The proposed crossing would be constructed with the following features:

- Precast concrete panel crossing surface;
- Cast-in-place concrete pedestrian pathway connecting the crossing panels to the platforms;
- One Commission Standard 9 warning device (flashing light signal assembly with automatic gate arm) at each platform entrance to the crossing;
- One push-to-open swing gate adjoining the location of each Commission Standard 9 gate arm to create a point of emergency egress when the gates are in the down position;
- Steel tube hand rails along pedestrian pathway approaches to the crossing to direct and channelize pedestrians;

- Inter-track fence of welded-wire construction on either side of the crossing to preclude pedestrian circumvention of warning devices;
- Detectible warning consisting of yellow tactile strips on either side of each track; and
- Twelve -inch white edge lines to channelize pedestrians across the tracks.

In addition to the above safety features, standard signage would be provided either affixed to fencing or post-mounted. As proposed in the application, signage would indicate by verbiage or picture the following messages: “No Trespassing, Violators Will Be Prosecuted,” “Do Not Enter Railroad Right of Way,” “Warning, Watch for Trains, Trains Approach from Both Directions” and other standard signage.

Local Concerns

The Acton Town Council (“ATC”) identified a concern regarding actual and potential access to and from the Metrolink platform and station from the south side of the tracks, where no station, parking or other facilities are currently located. ATC believes no access to the south side of the tracks should be allowed. The Commission’s Consumer Protection and Safety Division – Rail Crossings Engineering Section has investigated this concern and notes that the application indicates that the platform and associated crossing would be the only facilities placed on the south side of the tracks. No stairways, pathways or other pedestrian facilities providing access to the new platform from the south side of the tracks are sought or requested in the SCRRA application. All access by passengers to the trains at this station would continue to be from the parking and station facilities located north of the tracks. Moreover, to prevent access from the south side of the tracks, a welded wire mesh fence would run along the south

right-of-way line of the tracks near the station, an improvement over the existing condition where no barriers exist.

The application does not propose to allow pedestrians to cross from one side of the SCRRA tracks to the other side of the tracks, and would only allow access to the new platform from the existing one. As such, the proposed fencing is identified as an essential element of the crossing, as it would prevent any egress to or from the south, and would prevent pedestrians from using the crossing to pass completely over the SCRRA tracks and right-of-way.

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 SCRRA is the lead agency for the pedestrian pathway and accompanying elements because it is constructing them. The Commission is a responsible agency because it has jurisdiction to issue a permit for the project.

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).

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

The SCRRA prepared a Notice of Exemption (NOE), dated September 17, 1991. The NOE concluded that the project qualifies for Statutory Exemption under CEQA Guidelines §21080(b)(11), and Cal. Code Regs. Tit.14 §15275 . Both of these sections provide in pertinent part that CEQA does not apply to mass transit projects which institute or increase passenger or commuter service on rail lines or high-occupancy vehicle lanes already in use, or which include the modernization of existing stations and parking facilities. The SCRRA filed its NOE with the State Office of Planning and Research, and the Los Angeles County Clerk on September 18, 1991.

In its comments to the Proposed Decision, the Town of Acton asserts that the aforementioned CEQA exemption applies only to projects which institute or increase passenger service on rail lines already in use, but does not apply to projects which expand, or could expand passenger or commuter access to existing rail lines.⁴ The Commission disagrees. In this case, the new pedestrian crossing constitutes a modernization of the existing Vincent Grade/ Acton Station.

The Commission reviewed and considered the NOE and finds it adequate for its decision-making purposes.

Filing Requirements and Staff Recommendation

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

⁴ "Comments of the Acton Town Council on the Proposed Decision, Page 2."

The 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 road across a railroad.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section has reviewed and analyzed 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 176-3251 dated April 8, 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.

Comment Period

This is an uncontested matter in which the decision grants the relief requested; therefore a comment period is not required. However, because of local interest, the proposed decision in this matter was mailed to the parties of record in accordance with Section 311 of the Public Utilities Code and comments on the Proposed Decision solicited under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on January 3, 2011, by Jacqueline Ayer representing the Acton Town Council. No reply comments were received.

The ACT indicated that their concerns regarding access from the south side of the tracks were not adequately addressed by the proposed fencing discussed in the draft Decision.

The Commission has carefully considered ACT's concerns. The SCRRA application did not propose any of the elements that would provide access from the south side of the tracks, and notably includes a fence to prevent such access. SCRRA is required to maintain this fence. Staff agrees that no access should be provided from the south to allow pedestrians to cross completely over the tracks through the station. Moreover, this Decision was modified to specify that the fence is an integral part of the crossing, requiring Commission approval for any future removal.

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 15, 2010. There are no unresolved matters or protests. A public hearing is not necessary.
2. The SCRRA requests authority, under Public Utilities Code Sections 1201-1205, to construct one new pedestrian at-grade crossing across its Valley Subdivision line and Vincent Siding tracks located in the unincorporated community of Acton, in the County of Los Angeles, to be identified as CPUC Crossing No. 101VY-61.40-D and United States Department of Transportation No. 932896C.
3. The Acton Town Council has indicated concerns regarding actual or potential access from the south side of the tracks to the station.
4. The fencing to be installed is required as an essential element of the crossing, would prevent access from the south side of the tracks, and would prevent use of the station crossing to pass completely over the SCRRA tracks.
5. SCRRA is the lead agency for this project under CEQA.

6. SCRRA prepared an NOE which found that the project is statutorily exempt under CEQA Guidelines §21080(b)(11), and Cal. Code Regs. Tit.14 §15275.

7. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's NOE.

Conclusions of Law

1. SCRRA's determination that the project is statutorily exempt from CEQA is adequate for the Commission's 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 Southern California Regional Rail Authority is authorized to construct one new pedestrian at-grade crossing for the Vincent Grade/ Acton Station across its Valley Subdivision and Vincent Siding tracks as described in its application, which is located in the unincorporated community of Acton, in the County of Los Angeles.

2. The new pedestrian at-grade crossing shall be identified as CPUC Crossing No. 101VY-61.40-D and United States Department of Transportation No. 932896C.

3. The Southern California Regional Rail Authority shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

4. The fencing to be installed is required as an essential element of the crossing, shall be maintained by the Southern California Regional Rail Authority after installation, and shall require separate Commission authorization for any future removal.

5. The Southern California Regional Rail Authority 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.

6. Within 30 days after completion of the work under this order, the Southern California Regional Rail Authority 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 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.

7. Within 30 days after completion of the work under this order, the Southern California Regional Rail Authority shall notify the Federal Railroad Administration of the existence of the crossing by submitting a U.S.DOT CROSSING INVENTORY FORM, form FRA F6180.71. A copy is to be provided concurrently to the Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section. This copy of the form may be submitted electronically to rces@cpuc.ca.gov.

8. 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.

9. 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.

10. This application is granted as set forth above.

11. Application 10-03-008 is closed.

This order becomes effective 30 days from today.

Dated January 27, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

Commissioners

Commissioner Timothy Alan Simon, being necessarily absent, did not participate.