

Decision 11-05-011 May 5, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Stockton for an Order Authorizing Construction of the Sperry Road Extension Project, over tracks and through the Right-of-Way of the Union Pacific Railroad Company (UPRR), in the City of Stockton, County of San Joaquin, State of California.

Application 10-09-006
(Filed September 1, 2010)

DECISION GRANTING AUTHORIZATION TO THE CITY OF STOCKTON TO CONSTRUCT THE SPERRY ROAD EXTENSION PROJECT OVER THE TRACKS OF THE UNION PACIFIC RAILROAD IN THE CITY OF STOCKTON, SAN JOAQUIN COUNTY

Summary

This decision grants the City of Stockton authorization to construct three new grade-separated highway-rail crossings over the tracks of Union Pacific Railroad in the City of Stockton, in San Joaquin County. The crossings will be identified as CPUC Crossing Numbers 001BEL-88.21-A for the Fresno Subdivision crossing, 004-89.66-A for the Oakland Subdivision crossing, and 075-2.47-A for the McHenry Lead crossing.

Discussion

The City of Stockton's (City) proposed project involves extending Sperry Road west, from where it currently terminates near McKinley Avenue, to connect with French Camp Road. This will create a continuous route between Interstate (I) 5 and State Route (SR) 99. This is a highly industrialized area of the City with a very high amount of surface street freight movements. The City states that the

project is needed to reduce existing and projected traffic congestion and improve traffic safety. The extension will create three new grade-separated highway-rail crossings over the McHenry Lead tracks, the Fresno Subdivision tracks, and Oakland Subdivision tracks of the Union Pacific Railroad (UPRR).

The McHenry Lead crossing will occur at UPRR milepost 2.47 of that line. The overcrossing structure will be 184 feet long and 76 feet, 5 inches wide. There will be two traffic lanes in each travel direction and a 14-foot wide bike lane on the south side of the structure that is delineated from the traffic lanes by a guard rail and fencing. Minimum clearance from the top of rail to the bottom of the structure will be 23 feet, 8 inches. Rail service at the proposed grade-separated crossing will be approximately 2 freight trains per day at a maximum speed of 10 mph. The McHenry Lead crossing will be identified as CPUC Crossing No. 075-2.47-A.

The Oakland Subdivision crossing will occur at UPRR milepost 89.66 of that line. The overcrossing structure will be 415 feet long and 76 feet, 5 inches wide. The structure will also cross over McKinley Avenue, which runs parallel to the UPRR track at this location. There will be two traffic lanes in each travel direction and a 14-foot wide bike lane on the south side of the structure that is delineated from the traffic lanes by a guard rail and fencing. Minimum clearance from the top of rail to the bottom of the structure will be 24 feet, 11 inches. Rail service at the proposed grade-separated crossing will be approximately 6 freight trains per day at a maximum speed of 60 mph and 6 passenger trains per day at a maximum speed of 70 mph. The Oakland Subdivision crossing will be identified as CPUC Crossing No. 004-89.66-A.

The Fresno Subdivision crossing will occur at UPRR milepost 88.21 of that line. The overcrossing structure will be 431 feet long and 76 feet, 5 inches wide.

There will be two traffic lanes in each travel direction and a 14-foot wide bike lane on the south side of the structure that is delineated from the traffic lanes by a guard rail and fencing. Minimum clearance from the top of rail to the bottom of the structure will be 23 feet, 4 inches. Rail service at the proposed grade-separated crossing will be approximately 21 freight trains per day at a maximum speed of 60 mph. The Fresno Subdivision crossing will be identified as CPUC Crossing No. 001BEL-88.21-A.

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 under CEQA because the project is being constructed by them, and is subject to their review

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).

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

Pursuant to CEQA and the National Environmental Policy Act (NEPA)⁴, the City worked with the California Department of Transportation (Caltrans), acting as the lead agency under NEPA, and the Federal Highway Administration (FHWA) to prepare technical studies and an Initial Study for the proposed project. The City, Caltrans, and FHWA prepared a joint Environmental Impact Report (EIR)/Environmental Assessment (EA) for the proposed project.

The Draft EIR/EA for the Sperry Road Extension Project was prepared and circulated from March 14, 2006 to April 27, 2006. The Final EIR/EA⁵ was issued in November 2006. A Statement of Overriding Considerations (SOC) and a mitigation monitoring and reporting plan were adopted for the project in April 2007.

On June 27, 2007, the City filed a Notice of Determination (NOD) with the San Joaquin County Clerk. The NOD states that the Sperry Road Extension Project would have a significant impact on the environment and that mitigation measures were made a condition of the approval of the project. It also states that a SOC and mitigation monitoring plan were adopted for the project.

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 FHWA approved the Final EIR/EA on December 14, 2006. Caltrans approved the Final EIR/EA on December 15, 2006.

Even though a SOC was adopted for the project, no impacts were identified that could not be brought to less-than-significant levels by implementing mitigation measures.

In the Final EIR/EA, there are three impacts that are identified as significant impacts to the environment due to the construction being performed in the overall Sperry Road Extension Project: possible disruption of emergency services, traffic circulation, and noise. To minimize impacts on emergency services, a traffic management plan will be prepared and coordinated with emergency services prior to construction. Traffic circulation impacts will be mitigated by not opening the Sperry Road extension until the planned improvements to the I-5/French Camp Road interchange are completed. Noise will be mitigated by implementing noise abatement techniques and compliance with local noise ordinances.

The Final EIR/EA and findings were re-validated by the City and Caltrans on June 17, 2010.

The Commission reviewed and considered the City's Draft EIR/EA, Final EIR/EA, SOC and NOD as they relate to the three 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 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 inspected the sites of the proposed crossings, has reviewed and analyzed the plans submitted with the application, 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 176-3261, dated September 23, 2010, and published in the Commission Daily Calendar on September 24, 2010, the Commission preliminary categorized this application as ratesetting, and preliminary 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, made in Resolution ALJ 176-3261.

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 September 15, 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, as part of the Sperry Road Extension Project, to construct three new grade-separated highway-rail crossings over tracks owned by UPRR.

3. The City is the lead agency for this project under CEQA and Caltrans is the lead agency under NEPA.

4. The City, Caltrans and FHWA circulated the DEIR/EA for the Sperry Road Extension Project from March 14, 2006 to April 27, 2006. The FEIR/EA was issued in November 2006. A SOC and mitigation monitoring and reporting plan were adopted for the project in April 2007. On June 27, 2007, the City filed a NOD with the San Joaquin County Clerk. The NOD states that the Sperry Road Extension Project would have a significant impact on the environment and that mitigation measures were made a condition of the approval of the project and that a SOC and mitigation monitoring plan were adopted for the project.

5. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Draft EIR/EA, Final EIR/EA, SOC and NOD.

6. The Sperry Road Extension Project will have a significant effect on the environment. Mitigation measures, a mitigation monitoring plan and a SOC were adopted for the project.

Conclusions of Law

1. The Draft EIR/EA, Final EIR/EA, SOC and NOD 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 Stockton is authorized to construct three new grade-separated highway-rail crossings over tracks owned by Union Pacific Railroad as part of the Sperry Road Extension Project. The crossings will be identified as CPUC

Crossing Nos. 001BEL-88.21-A for the Fresno Subdivision crossing, 004-89.66-A for the Oakland Subdivision crossing, and 075-2.47-A for the McHenry Lead crossing in the City of Stockton, County of San Joaquin.

2. The City of Stockton 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 structures to traffic. Notification should be made to rces@cpuc.ca.gov.

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

4. Within 30 days after completion of the work under this order, Union Pacific Railroad 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 for each of the grade-separated crossings. 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.

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

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 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 10-09-006 is closed.

This order becomes effective 30 days from today.

Date May 5, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK FERRON

Commissioners