

Decision 11-07-018 July 14, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Sacramento Regional Transit District for authority to modify, construct, maintain, and operate a Light Rail Passenger System across UPRR's Track #150 in the City of Sacramento, State of California

Application 10-08-008
(Filed August 12, 2010)

DECISION GRANTING AUTHORIZATION TO SACRAMENTO REGIONAL TRANSIT DISTRICT TO CONSTRUCT A NEW AT-GRADE TRACK-OVER-TRACK DIAMOND CROSSING OF TRACK NUMBER 150 OF THE UNION PACIFIC RAILROAD

Summary

This decision grants the Sacramento Regional Transit District's request for authority to construct a new at-grade track-over-track diamond crossing across Track Number 150 of Union Pacific Railroad in the City of Sacramento, Sacramento County. The new crossing will be identified as CPUC Crossing No. 083A-0.91-T.

Discussion

Sacramento Regional Transit District (SRTD) requests authority to construct a new at-grade track-over-track crossing across Union Pacific Railroad (UPRR) Track Number 150, just to the west of the existing 7th Street at-grade highway-rail crossing (No. 001A-90.06-C) of Track Number 150.

This is part of a larger project that will connect the existing SRTD light rail track that currently runs along H Street between 7th and 8th Streets with a new light rail station near the intersection of 7th Street and Richards Boulevard. The new segment is referred to as the Downtown/Natomas/Airport MOS-1 Project

(Green Line). The track-over-track crossing is required to allow SRTD to extend its track north along the east side of 7th Street.

The tracks will cross at an approximate 90 degree angle and the crossing will be controlled by an interlocking railroad signal system. Under standard operating conditions, SRTD trains will have the normal right-of-way and trains on Track Number 150 will be shown a red STOP signal. Trains on Track Number 150 will be allowed to proceed when light rail trains are not detected, with the interlocking signal system showing a STOP indication for SRTD light rail trains while trains traverse the track-over-track crossing. Once the train on Track Number 150 has cleared the crossing, the interlocking circuits will revert to normal state. SRTD will be responsible for construction and maintenance of the track-over-track crossing and interlocking equipment under a maintenance and lease agreement, which is currently being finalized with UPRR.

Track Number 150 is owned by UPRR and used by the California State Railroad Museum to access the national rail system and serve one industrial customer. The California State Railroad Museum rarely utilizes the crossing to move museum or other train rolling stock; however UPRR does make approximately one delivery on this track per week, resulting on average in two trips through the crossing per week. Track Number 150 will become unnecessary and will be removed at a later date as part of the Downtown Sacramento Railyards track relocation project as described in Commission Decision (D.) 09-10-044. At that time, both Track Number 150 and the interlocking will be removed.

Also, as part of this project, the existing UPRR 7th Street highway-rail crossing of Track 150, CPUC Crossing No. 001A-90.06-C, will be modified. To create sufficient clearance for the new light rail track on the east side of 7th Street,

the bike lane adjacent to the northbound 7th Street traffic lane will be eliminated to allow the relocation of the northbound Commission Standard 9 (flashing light signal assembly with automatic gate) warning device approximately 7 feet 5 inches to the west. New pavement markings, signage and curbing will be installed to inform cyclists that the bike lane will be merging into the traffic lane as it approaches the crossing. The southbound bike lane and traffic lane will be unaffected.

The Green Line is the first minimum operating segment of SRTD's Downtown/Natomas/Airport (DNA) Project that will eventually extend light rail from downtown Sacramento to the Sacramento International Airport. The Green Line segment will be fully functional on its own, until the full DNA project is funded and constructed.

On May 25, 1999, the Federal Railroad Administration (FRA) and Federal Transit Authority (FTA) issued a proposed Joint Policy Statement on the safety regulation of freight and passenger rail operations on shared track. Under the proposed Policy Statement, FRA will assert jurisdiction over all operations on track that is part of the general railroad system of transportation (excluding street-running track connected to such general railroad system track), but will entertain waivers from its regulations for passenger rail transit operations, which will be temporally separated from freight operations on the shared general

system track. The passenger rail operations not regulated by FRA will be subject to state safety oversight pursuant to the FTA State Safety Oversight regulations.¹

The regulations state that the FRA may grant concurrence to its rules and regulations “if the request is in the public interest and consistent with railroad safety” (49 U.S.C. § 20103(d)). The FRA Policy Statement on shared use of the general railroad system, says that “FRA anticipates granting appropriate concurrence to its rules to permit shared use of general system lines by light rail and conventional equipment where the applicant transit systems and railroads commit to alternative measures and FRA finds those measures will ensure safety.” In that SRTD does not believe that any of the listed regulations require a waiver, SRTD is not requesting relief from any of these, but is requesting concurrence.

In its request for concurrence to the FRA dated May 27, 2011, SRTD certifies that the subject matter of the justifications is addressed by CPUC regulation and/or the Safety Plan Rulebook or Standard Operating Procedures, and will be monitored by the CPUC. In the Policy Statement, FRA has indicated that it not will assert jurisdiction over street-running track connected to general railroad system track. Therefore, no concurrence from FRA regulations is necessary for SRTD’s operations other than for the freight operations over the light rail crossing at track #150.

¹ Proposed Joint Statement of Agency Policy Concerning Shared Use of the General Railroad System by Conventional Railroads and Light Rail Transit Systems (“Policy Statement”), 64 Fed. Reg. 28238 (May 25, 1999), at 28240.

SRTD's light rail system is subject to state regulation by the CPUC and the FTA State Safety Oversight rule in Title 49 Code of Federal Regulations, Part 659. CPUC and FTA regulations will control operations over SRTD's Green Line as they do over the rest of SRTD's system.

In its petition, SRTD states that Green Line Project will have many benefits for the Sacramento County residents, area visitors, the private sector, and state and local governments. Operation of this rail to rail crossing will provide cost-effective use of limited public funds and increase the benefits to the community. It will improve personal mobility as well as maintain goods movement. More specifically, the use of the track-over-track crossing will serve the needs of SRTD, UPRR and the rail-served industry that is accessed over this crossing. Further, granting the Petition will allow SRTD to operate its integrated system efficiently, which will increase the use of public transportation. Increased use of public transportation will ease traffic congestion and reduce air pollution. SRTD believes that State and Federal regulations under which it currently operates the rest of its system will provide appropriate and equivalent safety for light rail operations on the Green Line.

Subsequent to any CPUC approval for the track-over-track crossing, SRTD will be subject to conditions, if any, that the FRA may place upon them relative to operation over the crossing. Given the limited nature of the shared use location, and the equipment, process and procedures put in place, no further conditions from the FRA relative to the SRTD request for concurrence are expected.

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, SRTD is the lead agency for this project because the project is within their jurisdiction, being constructed by them, 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.⁴

SRTD adopted a Light Rail Transit (LRT) Project as the Locally Preferred Alternative (LPA) for the DNA Corridor from Downtown Sacramento, through

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.

Natomas, to the Sacramento International Airport on December 15, 2003. SRTD subsequently prepared a Final Environmental Impact Report (FEIR) for the DNA Corridor Project in April 2008 and certified the FEIR on April 28, 2008. The Green Line Project EIR is tiered from the Final Program EIR for the DNA Corridor Project.

SRTD circulated the Draft Environmental Impact Report (DEIR) for the Green Line Project from February 10, 2009 to March 27, 2009. The FEIR was issued in April 2009. On May 1, 2008 SRTD filed a Notice of Determination (NOD) with the State Clearing House. The NOD states that the Green Line Project would have a significant impact on the environment and that mitigation measures were made a condition of the approval of the project. A mitigation monitoring and reporting plan and a Statement of Overriding Considerations (SOC) were adopted for the project.

A number of potentially significant impacts were identified in the FEIR, but most were mitigated to a less-than-significant levels. Impacts relating to air quality, noise/vibration, traffic and transportation, cultural resources, aesthetics, water and existing contaminated hazardous waste sites were identified which were able to be mitigated to a less-than-significant level. Although mitigations were adopted to address them, two identified impacts could not be fully mitigated and remain significant and unavoidable: (1) fugitive dust levels during construction exceed significance thresholds, and (2) the overhead cantenary system required for the light rail line has been identified as a significant visual impact.

Relative to the safety, transportation and noise areas under direct Commission jurisdiction, all impacts were fully mitigated. The Greenline Project will increase traffic volumes and have a significant impact on intersections in the

project area. By modifying traffic signal cycle length these impacts can be reduced to less-than-significant levels. Additionally, other minor transportation impacts relating to parking and the width of the pedestrian pathway under the Union Pacific 7th Street underpass were fully mitigated. Construction noise was also identified as having a potential significant impact. Noise control devices, such as equipment mufflers, enclosures and barriers will be used to reduce noise levels to less-than-significant levels. Operational noise/vibration impacts were identified for the several residences along 7th Street, just north of G Street. These are mitigated through improvements to insulation and acoustically rated windows for those structures. No other impacts with regard to safety, transportation and noise specific to the Greenline Project were identified in the SRTD's environmental documents.

The Commission reviewed and considered the SRTD's DEIR, FEIR, NOD and SOC 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 3.10 of Rules of Practice and Procedure, which relates to the construction of a railroad 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 plans submitted with the application, and recommends that the requested authority to construct the subject at-grade track-over-track crossing be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3260, dated September 2, 2010, and published in the Commission Daily Calendar on September 3, 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 176-3260.

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 16, 2010. There are no unresolved matters or protests. A public hearing is not necessary.
2. SRTD requests authority, under Public Utilities Code Sections 1201-1205, to construct an at-grade track-over-track crossing with UPRR's Track Number 150 as part of the Green Line Project in the City of Sacramento.
3. SRTD filed with the FRA a 'request for concurrence' to its rules to permit shared use of general system lines by light rail and conventional equipment.

4. SRTD is the lead agency for this project under CEQA, as amended.

5. SRTD circulated the DEIR for the Greenline Project from February 10, 2009 to March 27, 2009. The FEIR was issued in April 2009. On May 1, 2008, the SRTD filed a NOD with the State Clearing House. The NOD states that the Greenline Project would have a significant impact on the environment and that mitigation measures were made a condition of the approval of the project. A mitigation monitoring and reporting plan and a SOC were also adopted for the project.

6. The SRTD adopted mitigations to reduce all but two impacts to less-than-significant levels.

7. For those impacts that could not be fully mitigated, we find the SRTD adopted reasonable partial mitigations to reduce the impacts to the extent possible.

8. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's DEIR, FEIR, NOD, and SOC.

9. The Green Line Project will have a significant effect on the environment. Mitigation measures and a SOC were adopted for the project.

Conclusions of Law

1. The DEIR, FEIR, NOD, and SOC prepared by SRTD 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. Sacramento Regional Transit District is authorized to construct the track-over-track crossing as part of the Green Line Project, as described above and in its application and attachments. The crossing will be identified as CPUC Crossing No. 083A-0.91-T in the City of Sacramento, County of Sacramento.
2. Sacramento Regional Transit District is authorized to modify the existing Union Pacific Railroad Company at-grade crossing of 7th Street, CPUC Crossing No. 001A-90.06-C, during its construction of the adjacent track-over-track crossing, as part of the Green Line Project, as described above and in its application and attachments.
3. Sacramento Regional Transit District shall provide a copy of the final reply or order of the Federal Railroad Administration in the District's petition request for concurrence to Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section upon receipt.
4. Sacramento Regional Transit District shall provide a copy of the final lease and maintenance agreement upon its execution with Union Pacific Railroad Company, to Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section.
5. Sacramento Regional Transit District 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 shall be made to rces@cpuc.ca.gov .
6. Within 30 days after completion of the work under this order, the Sacramento Regional Transit District 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.

7. The Sacramento Regional Transit District shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

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.

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.

The application is granted as set forth above.

9. Application 10-08-008 is closed.

This order becomes effective 30 days from today.

Date July 14, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK FERRON

Commissioners