

Decision 03-12-044 December 18, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the State of California,
Department of Transportation, for an order
authorizing the Department to: Construct the
Sultana Drive Overhead, P.U.C. No. B-138.6-A/
DOT No.: 921261T over tracks owned by the
Union Pacific Railroad Company, in the County
of Merced, City of Livingston, State of California.

Application 03-03-023
(Filed March 14, 2003)

O P I N I O N

Summary

This decision grants the request of the California Department of Transportation (Caltrans) for authority to construct a grade-separated highway-rail crossing (crossing) over the track and right-of-way of the Union Pacific Railroad Company (UPRR) between Arena Way and Peach Avenue in the City of Livingston (City), Merced County. The new crossing will be known as the Sultana Drive Overhead, will be constructed in connection with the Livingston Freeway Project (Project), and will be identified as CPUC Crossing No. 001B-138.6-A. A map of the general project vicinity is set forth in Appendix A.

Discussion

This proposed crossing is part of the Project that involves realigning State Route 99 from a four-lane expressway to a six-lane freeway through the City. The crossing will provide an overpass that will benefit the public from a transportation standpoint by improving the operation and safety characteristics

of the location at which it will be built. The new crossing will be a single span concrete box girder bridge, 195 feet and 9 inches in length, and 39 feet and 4 inches in travel-way width. There will be no special signs, signals, or other warning devices installed during construction. The two public highway-rail crossings immediately to the north and south of this crossing, Peach Avenue (CPUC Crossing No. 001B-138.40) and Arena Way (CPUC Crossing No. 001B-139.00), respectively, will be abandoned and their approaches removed. Caltrans is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code 21000 et. seq. On May 14, 1987, Caltrans prepared and approved a Negative Declaration, in accordance with CEQA, that assesses the potential environmental impacts of the Project. This Negative Declaration was reevaluated on August 31, 2001, and project approval was reaffirmed with a finding that the project will not have any significant environmental impacts. As indicated above, the proposed crossing is a part of the Project.

Although finding that the proposed crossing would not have a significant effect on the environment, there will be a moderate change in land use with the conversion of agricultural land, residential land, and commercial land to highway use.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities,

which must be conducted by a responsible agency, are contained in CEQA Guideline Section 15096.

The Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section (RCES) has reviewed the Negative Declaration for the Project and believes it is adequate for decision-making purposes. Safety, traffic (transportation), and noise are within the scope of the Commission's permitting process. Caltrans' Negative Declaration did not identify any potential impacts related to the safety, transportation or noise associated with the Project.

In fact, local traffic circulation is expected to improve because the proposed crossing will replace a substandard intersection. Caltrans' Negative Declaration reasonably concludes that the Project will not have a significant effect on the environment.

RCES has inspected the site of the proposed crossing. After reviewing the need for and safety of the proposed crossing, RCES recommends that the requested authority sought by Caltrans be granted for a period of three years.

Application 03-03-023 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

In Resolution ALJ 176-3110 dated April 3, 2003, and published in the Commission Daily Calendar on April 4, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3110.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the

otherwise applicable 30-day period for public review and comment is being 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 March 18, 2003. No protests have been filed.
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 the UPRR between Arena Way and Peach Avenue in the City of Livingston, Merced County. This crossing will be identified as CPUC Crossing No. 001B-138.6-A.
3. Caltrans requests, upon completion of the new Sultana Drive Overhead crossing (001B-138.6-A), authority to close and physically remove the two existing at-grade crossings, CPUC Crossing No. 001B-138.40 and CPUC Crossing No. 001B-139.00.
4. Public convenience, safety, and necessity require the construction of the proposed crossing.
5. Caltrans is the lead agency for this project under CEQA, as amended.
6. The Commission is a responsible agency for this project, has reviewed Caltrans' environmental documentation specified in this decision, and finds the documentation adequate for decision-making purposes.
7. On May 14, 1987, Caltrans prepared and approved a Negative Declaration for the Project, which the proposed crossing is a part, and found that the crossing will not have a significant effect on the environment.
8. Safety, transportation, and noise are within the scope of the Commission's permitting process.

9. Caltrans' environmental documentation did not identify any significant adverse environmental impacts from the project related to safety, transportation, or noise.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. 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 (Caltrans) is authorized to construct a grade-separated highway-rail crossing (crossing) between Arena Way and Peach Avenue over the track and right-of-way of the Union Pacific Railroad Company (UPRR) in the City of Livingston, Merced County. The crossing will be identified as CPUC Crossing No. 001B-138.6-A, Sultana Drive Overhead.

2. Upon completion of the new Sultana Drive Overhead crossing (001B-138.6-A), Caltrans shall close and physically remove the two existing at-grade crossings, CPUC Crossing No. 001B-138.40 and CPUC Crossing No. 001B-139.00.

3. Clearances shall be in accordance with General Order (GO) 26-D.

4. Walkways shall conform to GO 118. Walkways adjacent to any tracks subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

5. Construction and maintenance costs shall be borne in accordance with an agreement that has been entered into between Caltrans and UPRR (parties).

Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

6. Within 30 days after completion of the work under this order, UPRR shall notify RCES in writing, by submitting a completed Standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work was completed.

7. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

8. This application is granted as set forth above.

9. Application 03-03-023 is closed.

This order becomes effective 30 days from today.

Dated December 18, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

