

Decision 06-06-015 June 15, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Stockton
For an Order authorizing the City to:
Construct Morada Lane at Grade Crossing
Over the tracks right-of-way of the
Union Pacific Railroad Company in the
City of Stockton, San Joaquin County,
State of California.

Application 05-09-020
(Filed September 12, 2005)

**OPINION AUTHORIZING THE CITY OF STOCKTON
TO WIDEN AND IMPROVE THE EXISTING AT-GRADE RAILROAD
CROSSING AT MORADA LANE ACROSS THE TRACKS
OF THE UNION PACIFIC RAILROAD COMPANY**

I. Summary

The City of Stockton (City) is authorized to improve and widen the existing at-grade railroad crossing at Morada Lane over tracks owned by the Union Pacific Railroad Company (UPRR). Upon completion of the above project, the City is authorized to close the existing at-grade crossing at McAllen Road, over these same tracks. This proceeding is closed.

II. Procedural Matters

UPRR timely protested the subject application on October 6, 2005. UPRR withdrew its protest on January 24, 2006. No other protests were filed, and the application is unopposed.

III. Discussion

The City is requesting authority, under Pub. Util. Code §§ 1201-1205, to improve and widen the existing at-grade railroad crossing at Morada Lane from two lanes (one in each direction - east/west) to six lanes over one main-line track

of the UPRR. Upon completion of the Morada Lane project, the City also proposes to close the existing crossing at McAllen Road, located approximately three miles south, along the same UPRR tracks. Construction is planned to commence in mid-2006. The City has provided all of the necessary information and maps to meet the requirements of our rules regarding at-grade crossings. Rules 38 and 39 of our Rules of Practice and Procedure (Rules), relevant to the proposed project are discussed below, followed by a separate discussion on environmental impact issues (Rule 17.1).

A. Public Need

The existing crossing at Morada Lane is 25 feet wide. The City's 2035 General Plan Update projects use at over 26,000 vehicles/day. Current rail traffic is 17 trains/day, and expected to remain at or about that level. Here, the City requests to improve an existing crossing that will provide a greater level of safety, not install a new crossing. The widening project at Morada Lane will improve roadway capacity. The roadway portion over the track will be pre-cast concrete, with five feet wide concrete sidewalks constructed on each side.

B. Crossing Safety

Safety is the overriding issue in authorizing the approval for any at-grade crossing. The construction and safety features of the crossing shall be in compliance with all applicable safety requirements, including Commission General Order (GO) 26-D (clearances), GO 72-B (pavement construction), GO 75-C (crossing protection), and GO 118 (walkways). The City proposes to install two automatic gate-type signals with cantilevers (Standard No. 9-A type), two automatic gate type signals (Standard No. 9 type), and two railroad advance warning-side road signs (W10A type). The City also will install warning flashers for pedestrian traffic to further augment the level of safety at the crossing.

The City has shown the proposed improvements to the Morada Lane crossing will provide an adequate level of safety when considering the traffic volumes, train speeds, crossing protection devices, rail/highway crossing angles, and sight lines.

C. Practicability

In applications for at-grade crossings, the Commission has the discretion to approve the request, order a separation of grade or deny the application. Grade separated crossings provide a higher level of safety than at-grade crossings, and Pub. Util. Code § 1202 (c) gives the Commission the exclusive power to require, where in the Commission's judgment it would be practicable, a separation of grades at any crossing. In this case, we find that grade separation is impracticable for two reasons: 1) constructing an overpass would require encroachment on the private property of homeowners in a nearby housing development; and 2) two waterways, the Mosher Slough and a Woodbridge Irrigation District canal, are within one-tenth of a mile from the crossing and an underpass would require that the roadway be constructed below the level of the waterways to make grade, and thereby create a greater potential for flooding.

D. Construction and Maintenance

The City is responsible for construction of the proposed project. During construction, all temporary traffic controls shall be in compliance with the United States Department of Transportation (USDOT) Manual on Uniform Traffic Controls. The authority to construct the subject crossings will remain in effect for a period of two years, unless otherwise ordered by the Commission. The crossing identification number assigned by the Commission for Morada Lane is 001D-96-60. This number will remain unchanged.

To ensure proper maintenance of the crossings, the City and the UPRR are directed to enter into a written agreement on the apportionment of maintenance costs within 30 days of the effective date of this order.

To keep an accurate recording of construction and maintenance activity, the City is directed to file with Staff, prior to construction, the final construction plans and a copy of the written maintenance cost apportionment agreement. Within 30 days after completion of the work under this order, the City shall notify Staff in writing by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations).

E. Environmental Review

The City is the lead agency for compliance with the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Sections 21000, *et seq.* The Commission is a responsible agency under CEQA. CEQA requires the Commission to consider the environmental consequences of a project that is subject to its discretionary approval. In particular, a responsible agency must consider the lead agency's environmental impact report or negative declaration that no significant harm will come to the environment as a result of the project prior to acting upon or approving the project (CEQA Guidelines, Section 15050(b)). The specific activities that must be conducted by the responsible agency are contained in CEQA Guidelines, Section 15096.

The Morada Lane Project is part of the City's 2035 General Plan. The City, as lead agency, conducted a full environmental review of the General Plan, including an analysis of the circulation plan element and the environmental impact of the road improvements at the proposed crossing.

The Morada Lane Project includes subdivision and commercial development, as well as widening and improving the roadway/railroad crossing at Morada Lane. The City issued its Final Environmental Impact Report (FEIR) on the Morada Lane Project in August 1988 (State Clearinghouse No. 88022317; City EIR File No. 1-88). To improve traffic circulation, widening of the Morada Lane railroad crossing is included as a necessary mitigating measure in the FEIR. On January 9, 1989, the Stockton City Council adopted the Morada Lane Project FEIR (Resolution 89-0027), and on January 12, 1989 filed a Notice of Determination for the project with the County of San Joaquin and the State of California Office of Planning and Research.

The construction and operation of the subject crossing is consistent with the development described in the City's 2035 General Plan, and in the FEIR for the Morada Lane Project. As the responsible agency, we accordingly approve the City's FEIR for the railroad/roadway crossing project at Morada Lane.

IV. Categorization

This proceeding was preliminarily categorized as ratesetting and preliminarily determined not to require a hearing, pursuant to Resolution ALJ 176-3159, dated September 22, 2005. We conclude that the proceeding is properly categorized and, with the withdrawal UPRR's protest, we find a public hearing is unnecessary.

V. Assignment of Proceeding

John A. Bohn is the Assigned Commissioner, and Kenneth L. Koss is the assigned ALJ in this proceeding.

VI. Comments on Draft Decision

This is an uncontested matter where the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2) and

Rule 77.7 (f)(2) of the Commission's Rules of Practice and Procedure, the 30-day period for public review and comment is being waived.

Findings of Fact

1. The proposed crossing will replace the existing at-grade crossing at Morada Lane, over the UPRR main line track, within the City.
2. The project calls for the Morada Lane roadway to be widened from two lanes to six lanes.
3. The City intends to close an existing at-grade crossing at McAllen Road over the same tracks once the new Morada Lane crossing is constructed.
4. Rail traffic is now approximately 17 trains per day, and expected to remain at that level in the future.
5. The City's General Plan projects vehicle traffic at over 26,000 per day at the proposed crossing.
6. The General Plan includes the Morada Lane crossing project.
7. The General Plan finds the subject crossing is necessary to improve traffic circulation, reduce congestion, and improve air quality.
8. At the proposed crossing, the City will install two automatic gate-type signals with cantilevers (Standard No. 9-A type), two automatic gate type signals (Standard No. 9 type), and two railroad advance warning-side road signs (W10A type).
9. The City also will install warning flashers for pedestrian traffic.
10. All track and roadway segments near the proposed crossing will be straight and flat with no line-of-sight obstacles for either trains or vehicles.
11. The crossing will be constructed of pre-cast concrete panels and fully signalized with standard advanced warning signs, pavement markings and striping.

12. All potential safety hazards associated with the crossing will be eliminated.

13. Construction of a grade separation is not practicable.

14. The City will be responsible for all construction costs, unless otherwise agreed to by UPRR.

15. The crossing must be adequately maintained and the associated costs apportioned according to a written agreement between the City and the UPRR.

16. The authority to construct the proposed crossing will be in effect for a period of two years.

17. The proposed crossing is assigned Commission crossing identification number 001D-96-60.

18. The City is the lead agency for compliance with CEQA.

19. The Commission is the responsible agency under CEQA.

20. As part of its General Plan, the City conducted a full environmental review of the Morada Lane Project.

21. The Morada Lane Project includes improving and widening the railroad/roadway crossing at Morada Lane.

22. On January 9, 1989, the City adopted the FEIR for the Morada Lane Project (State Clearinghouse No. 88022317).

23. On January 12, 1989, the City filed a Notice of Determination for the Morada Lane Project with the County of San Joaquin and the State of California Office of Planning and Research.

24. The FEIR analyzed and reviewed the circulation plan element and the environmental impact of the road improvements at the proposed crossing.

25. The FEIR concludes that widening and improving the railroad/roadway crossing at Morada Lane is a necessary mitigation measure to the Morada Lane Project.

26. As responsible the agency, we have reviewed and considered the City's environmental documentation upon which the City relied in adopting its findings.

27. UPRR timely filed a protest to the subject application on October 6, 2005.

28. UPRR withdrew its protest on January 24, 2006, and the application is otherwise unopposed.

Conclusions of Law

1. The proposed improvement of the at-grade crossing at Morada Lane should be approved.

2. The existing at-grade crossing at McAllen Road should be closed.

3. The proposed crossing protection and warning devices are adequate for the projected traffic.

4. The Commission should adopt the findings of the Notice of Determination filed by the City that the proposed crossing project is a necessary mitigation measure to the Morada Lane Project.

5. There is no need for an evidentiary hearing.

6. The application should be granted and closed, as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Stockton (City) is authorized to improve the existing at-grade highway-rail crossing over tracks owned by the Union Pacific Railroad Company

(UPRR) at Morada Lane, and to close the existing at-grade crossing at McAllen Road over these same tracks.

2. The Commission identification number for the Morada lane crossing is 001D-96-60.

3. Crossing warning devices shall conform to Commission's General Order (GO) 75-C.

4. Clearances at the crossing shall be in accordance with GO 26-D.

5. Walkways shall conform to GO 118. During construction, walkways adjacent to any rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of any damage caused by the construction.

6. Pavement construction shall conform to GO 72-B.

7. All costs associated with the construction of the proposed crossing shall be the responsibility of the City, unless otherwise agreed by the UPRR.

8. The crossing shall be adequately maintained and within 30 days of the effective date of this order, the City and the UPRR shall enter into a written agreement on the apportionment of maintenance costs and responsibilities for the crossing named above.

9. Prior to construction, the City shall file with the Commission's Consumer Protection and Safety Division (Staff), final construction plans and a copy of the written maintenance cost apportionment agreement between the City and UPRR.

10. This authorization shall expire if not exercised within two years unless the Commission grants an extension. The authorization may be revoked or modified if public safety, convenience or necessity so requires.

11. Within 30 days after completion of the authorized construction, the City shall submit a completed Commission Form G (Report of Changes at Highway Grade Crossings and Separations) to Staff.

12. The application is granted, as set forth.

13. Application 05-09-020 is closed.

This order is effective today.

Dated June 15, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

ATTACHMENT
SERVICE LIST - A.05-09-020

James B. Giottonini
Director of Public Works
City of Stockton
425 N. El Dorado St.
Stockton, CA 95202

Kenneth L. Koss
Administrative Law Judge
California Public Utilities Commission
505 Van Ness Ave
San Francisco, CA 94102

Gordon Mackay
Deputy Public Works Director
City of Stockton
425 N. El Dorado St.
Stockton, CA 95202

Richard Clark, Director
Consumer Protection & Safety Division
California Public Utilities Commission
505 Van Ness Ave
San Francisco, Ca 94102

Linda Vaisa
California Public Utilities Commission
320 W. 4th St., Ste. 500
Los Angeles, CA 90013

Interested Parties:

Carol A. Harris, Esq.
Union Pacific Railroad Co
49 Stevenson St., Suite 1050
San Francisco, CA 94105

(END OF ATTACHMENT)