

Decision 06-06-028 June 15, 2006

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 Westside Boulevard Overhead, PUC Bridge Number and Federal DOT Number to be assigned, over tracks owned by the Union Pacific Railroad at Railroad M.P. 140.60, in the County of Merced.

Application 06-01-013
(Filed January 25, 2006)

OPINION**Summary**

This decision grants the request of the California Department of Transportation (Caltrans) for authority to construct a grade-separated highway-rail crossing (crossing) at the extension of Westside Boulevard over the track and right-of-way of the Union Pacific Railroad Company (UPRR) in the County of Merced (County). The new crossing will be known as the Westside Boulevard Overhead, will be constructed in connection with the Atwater Freeway Project (Project), and will be identified as CPUC Crossing No. 001B-140.60-A. Two adjacent, at-grade public highway-rail crossings will be closed as a result of this Project: Central Avenue (CPUC Crossing No. 001B-140.60), which will be directly replaced by the Westside Boulevard Overhead, and Grove Avenue (CPUC Crossing No. 001B-141.10). 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 and converting State Route (SR) 99 from a four-lane expressway to a six-lane freeway in a 2.7-mile long segment of the SR 99 corridor in County. The Project will eliminate all at-grade intersections of local roads with SR 99 in the Project area. 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 double span, concrete box girder bridge, 206 feet in length, and 42 to 49 feet in travel-way width that will cross a UPRR mainline track (001B Line) and SR 99. There will be no special signs, signals, or other warning devices installed during construction. There will be two adjacent, at-grade public highway-rail crossings closed as a result of this Project: Central Avenue (CPUC Crossing No. 001B-140.60), which will be directly replaced by the Westside Boulevard Overhead, and Grove Avenue (CPUC Crossing No. 001B-141.10). As a result of closure, both of these crossings will have their crossing surfaces, highway-rail warning devices, and approaches removed.

Environmental Review

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 proposed new crossing is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission must approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the proposed new crossing by acting as either a lead or responsible agency under CEQA.

The lead agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, Caltrans is the lead agency for this project and the Commission is a responsible agency. 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.²

The Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section (RCES) has reviewed the Negative Declaration (issued March 8, 2002) for the Project and finds it adequate for our decision-making purposes. As indicated above, the proposed new crossing is a part of the Project. 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 06-01-013 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.

Categorization and Need for Hearings

In Resolution ALJ 176-3167 dated February 16, 2006, 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 176-3167.

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

² CEQA Guidelines, Sections 15050(b) and 15096.

Waiver of Comment Period

This application 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 January 27, 2006. No protests have been filed.
2. Caltrans requests authority, under Public Utilities Code Sections 1201-1205, to construct a grade-separated crossing at the extension of Westside Boulevard over the track and right-of-way of the UPRR in County. This crossing will be identified as CPUC Crossing No. 001B-140.60-A.
3. Caltrans requests, upon completion of the new Westside Boulevard Overhead crossing (001B-140.60-A), authority to close and physically remove two adjacent, existing at-grade crossings, CPUC Crossing No. 001B-140.60 and CPUC Crossing No. 001B-141.10.
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. Caltrans adopted a Negative Declaration for the Project, of which the proposed crossing is a part, pursuant to CEQA.
7. The Commission is a responsible agency for this proposed new crossing and has reviewed and considered Caltrans' Negative Declaration.

Conclusions of Law

1. The Negative Declaration adopted by Caltrans as the documentation required by CEQA for the Project is adequate for our decision-making purposes.
2. We adopt Caltrans' Negative Declaration finding that the Project (of which the proposed crossing is a part) will not have a significant impact on the environment.
3. The application is uncontested and a public hearing is not necessary.
4. 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) at the extension of Westside Boulevard over the track and right-of-way of the Union Pacific Railroad Company (UPRR) in the County of Merced. The crossing will be identified as CPUC Crossing No. 001B-140.60-A, Westside Boulevard Overhead.
2. Upon completion of the new Westside Boulevard Overhead crossing (001B-140.60-A), Caltrans shall close and physically remove two adjacent, existing at-grade crossings, CPUC Crossing No. 001B-140.60 and CPUC Crossing No. 001B-141.10.
3. Caltrans shall comply with all applicable General Orders and the Federal Highway Administration's Manual on Uniform Traffic Control Devices as amended by the California Supplement.
4. 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.

5. Within 30 days after completion of the work under this order, UPRR shall notify Rail Crossings Engineering Section 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.

6. 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.

7. This application is granted as set forth above.

8. Application 06-01-013 is closed.

This order becomes effective 30 days from 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

APPENDIX A

