

Decision 06-09-036 September 21, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Fullerton for authority/order to convert the existing at-grade crossing of Hughes Drive to a public crossing, CPUC Crossing No. 003Y-14.60, DOT No. 906013G, City of Fullerton, County of Orange, CA.

Application 06-06-018
(Filed June 22, 2006)

O P I N I O N

Summary

This decision grants the City of Fullerton's (City) request to alter and convert to a public crossing the existing private at-grade crossing of Union Pacific Railroad Company's (UPRR) Anaheim Branch railroad tracks and Hughes Drive in City of Fullerton, County of Orange.

Discussion

In the past, the existing private at-grade crossing of Hughes Drive was used to access the private property owned by Hughes Corporation. This 293-acre property was sold and developed as Amerige Heights, which includes retail, residential, and light manufacturing. City has taken ownership of the formerly private roadway, which is now being used by the general public. General traffic circulation and an entrance and exit point from the Amerige Heights development require the crossing.

The application states grade-separation is not practicable due to the low volume of railroad and vehicular traffic and roadway geometrics. The City has

not done a traffic count at this crossing, but the City Traffic Engineer estimates an average daily traffic of less than 1,500 vehicles. The posted speed limit is 25 mph. UPRR has reported that two trains per day travel through the crossing at speed limit of 10 mph. The crossing currently includes five traffic lanes (two northbound and three southbound), a painted median, and a single set of railroad tracks. No reports of train related accidents at the crossing are found in the Commission's database or the Federal Railroad Administration's on-line database.

City proposes to alter the crossing as outlined in its application and as shown in plans attached to the application and Appendix B of this Order. The alterations include installing:

- Raised island medians 9-foot wide, 40-foot long, 6-inch high. The medians will be placed on both sides of the railroad tracks (thereby eliminating one of the existing southbound traffic lanes over the crossing);
- Two median-mounted Commission Standard No. 8s (flashing light signals, as defined in General Order (GO) 75-C), one on each side of the tracks. These devices will compliment the existing two curb-mounted Commission Standard No. 9s (flashing light signals with gates, as defined in GO 75-C);
- Highway-Rail Grade Crossing Advance Warning signs (defined as Standard W10-1 in the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration) with train-activated yellow flashing lights on both vehicular approaches to the crossing.

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources (PR) 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. 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); therefore, 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 the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, City 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

City has prepared an environmental impact report titled "Amerige Heights Specific Plan - Final Environmental Impact Report" (FEIR) dated October 2000. The FEIR covers the Amerige Heighes development, including the rail line and crossing location, and identifies some environmental impacts, and measures to mitigate them, due to traffic, circulation, and noise. Noise impacts relating to the existing rail line and current operations were identified,

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

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

and mitigations were established, however, the identified impacts do not specifically pertain to the private-to-public conversion of the Hughes Road highway-rail crossing that is the subject of this application.

The Commission reviewed and considered the FEIR and other environmental documents and finds them adequate for our decision-making purposes.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) has inspected the existing at-grade crossing and reviewed City's proposed alterations to the crossing. RCES recommends that the Commission grant City's request.

The application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad. A vicinity map of the existing crossing location and a plan of the proposed alterations to the crossing are shown in Appendixes A and B of this order.

Categorization and Need for Hearings

In Resolution ALJ 176-3175, dated June 29, 2006, and published in the Commission Daily Calendar on June 30, 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 176-3175.

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 June 26, 2006. There are no unresolved matters or protests; a public hearing is not necessary.
2. City requests authority, under Public Utilities Code Sections 1201-1205, to convert the private at-grade crossing of Hughes Drive to a public crossing.
3. General traffic circulation and an entrance and exit point from the Amerige Heights development, which includes retail, residential, and light manufacturing, require the crossing.
4. City is the lead agency for this project under CEQA, as amended.
5. City adopted an FEIR for this project pursuant to CEQA.
6. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's FEIR.

Conclusions of Law

1. The FEIR is adequate for our decision-making purposes.
2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. City of Fullerton (City) is authorized to alter and convert to a public crossing the existing at-grade private crossing of Union Pacific Railroad Company's (UPRR) Anaheim Branch and Hughes Drive, identified as CPUC

Crossing No. 003Y-14.60-X. The public at-grade crossing shall be identified as CPUC Crossing No. 003Y-14.60.

2. The alterations to the crossing shall include installing 9-foot wide, 40-foot long, 6-inch high raised island medians on both sides of the tracks; installing two

median-mounted Commission Standard No. 8s (flashing light signals, as described in Commission General Order 75-C); and installing Highway-Rail Grade Crossing Advance Warning signs (defined as Standard W10-1 in the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration) with train-activated yellow flashing lights on both vehicular approaches to the crossing. The placement of the warning devices shall be as shown in the plans attached to the application and Appendix B of this order.

3. City and UPRR shall comply with all applicable rules, including Commission General Orders and the Manual on Uniform Traffic Control Devices (MUTCD), as amended by the MUTCD California Supplement.

4. Construction and maintenance costs shall be borne in accordance with an agreement that has been entered into between City 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 the Commission's Rail Crossing Engineering Section (RCES) that the authorized work is completed, by submitting a completed Commission Standard Form G titled *Report of Changes at Highway Grade Crossings and Separations*.

6. This authorization shall expire if not exercised within two 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. A request for extension of the two-year authorization period must be submitted to RCES at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

8. This application is granted as set forth above.

9. Application 06-06-018 is closed.

This order becomes effective 30 days from today.

Dated September 21, 2006, at San Francisco, California.

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

APPENDIX A VICINITY MAP



