

Decision 08-12-042 December 18, 2008

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the City of Sacramento, Department of Transportation, for an Order Authorizing the Department to Construct the Interstate 5 Interchange and Cosumnes River Boulevard Extension Project PUC Bridge Number and Federal DOT Number to be assigned, Over Tracks Owned by the Union Pacific Railroad at Railroad M.P. 130.40, In the County of Sacramento.

Application 08-08-010  
(Filed August 19, 2008)

**DECISION GRANTING CITY OF SACRAMENTO  
AUTHORITY TO CONSTRUCT NEW GRADE-SEPARATED  
HIGHWAY-RAIL CROSSING AT COSUMNES RIVER  
BOULEVARD OVER THE TRACKS OF THE UNION  
PACIFIC RAILROAD COMPANY**

**Summary**

This decision grants the City of Sacramento's (City) request for authority to construct the new grade-separated highway-rail crossing at Cosumnes River Boulevard over the tracks of the Union Pacific Railroad Company (UPRR) in the City, in Sacramento County. The crossing will be identified as Commission Crossing No. 004-130.40-A. The four-lane grade-separated bridge is part of a larger project to extend Cosumnes River Boulevard from its current western terminus at Franklin Boulevard westward to Interstate 5 and Freeport Boulevard, which will provide an east-west connector between Interstate 5 and State Route 99.

## **Discussion**

The City requests authority to construct a new grade-separated highway-rail crossing at the future extension of Cosumnes River Boulevard. The City proposes to build a Cast-in-Place/Prestressed Concrete Box Girder Bridge that will cross the UPRR tracks with a 945-foot span and will accommodate four lanes of traffic. The bridge is part of the City's project to extend Cosumnes River Boulevard westward to Interstate 5 and Freeport Boulevard, which will provide an east-west connector between Interstate 5 and State Route 99, improving traffic circulation in the southwest portion of the City.

This UPRR rail line experiences approximately 12 freight trains per day, and currently there is no scheduled passenger service along this line. In addition to UPRR freight trains, BNSF Railway also operates freight trains over this line.

## **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 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.<sup>1</sup> Here, the 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.<sup>2</sup>

Pursuant to National Environmental Policy Act (NEPA)<sup>3</sup> and CEQA in April 2007, the City, the California Department of Transportation and the US Department of Transportation Federal Highway Administration (FHWA), prepared a Final Environmental Impact Statement (FEIS)/Final Environmental Impact Report (FEIR) for the project. The City acted as the lead agency for CEQA and the FHWA acted as the lead for NEPA. A Notice of Determination (NOD) filed with the Sacramento County Clerk on May 18, 2007 stated that mitigation measures were made a condition of approval of the project, and the NOD adopted a Statement of Overriding Considerations for the project, of which this grade separation is a part, and certifies all findings were made pursuant to the provisions of CEQA. Additionally, a Record of Decision (ROD) was adopted by the FHWA in approving the project, pursuant to the requirements of NEPA.

Traffic and noise impacts are within the scope of the Commission's permitting process. With respect to the potentially significant noise and

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

<sup>2</sup> CEQA Guidelines, Sections 15050(b) and 15096.

<sup>3</sup> 42 USC 4332 (2)(c) of 1969 as amended. Projects undertaken in California that utilize federal funds, require discretionary federal approval or are undertaken by federal agencies are subject to both NEPA and CEQA.

transportation impacts identified in the FEIS/FEIR, the Commission finds that the City adopted feasible mitigation measures to either eliminate or substantially lessen those impacts to less than significant levels. The City adopted a Statement of Overriding Considerations for those impacts that could not be mitigated to less-than-significant levels. We will adopt City's environmental findings and mitigations for purposes of our approval.

### **Filing Requirements and Staff Recommendations**

This application is in compliance with the Commission's filing requirements including Rule 3.7 of Rules of Practice and Procedure, which relates to the construction of a highway across a railroad.

The Commission's Rail Crossings and Engineering Section has inspected the site of the proposed crossing, has reviewed and analyzed the proposed crossing, and recommends that the requested authority to construct the subject crossing be granted for a period of three years.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3220, dated September 4, 2008, and published in the Commission's Daily Calendar on September 5, 2008, 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 176-3220.

### **Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code 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 being waved.

### **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 22, 2008. There are no unresolved matters or protests. A public hearing is not necessary.

2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a new grade-separated highway-rail crossing at its extension of Cosumnes River Boulevard. The crossing will be identified as Commission Crossing No. 004-130.40-A.

3. The City, acting as lead agency pursuant to CEQA, and the FHWA pursuant to NEPA, in April 2007, adopted and filed a FEIS/FEIR for the project. The City filed an NOD in compliance with the Public Resources Code dated May 18, 2007. FHWA approved an ROD for the Project in January 2008.

4. The Commission is a responsible agency for this project and has reviewed and considered the City and FHWA FEIS/FEIR specified in this decision, and finds the documentation adequate for decision-making purposes.

### **Conclusions of Law**

1. The FEIS/FEIR and Notice of Determination, as required by CEQA and NEPA and as prepared by the City and the FHWA, 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. The City of Sacramento (City) is authorized to construct a new grade-separated crossing at its extension of Cosumnes River Boulevard. The crossing will be identified as Commission Crossing No. 004-130.40-A.
2. Within 30 days after completion of the work under this order, the Union Pacific Railroad Company shall notify the Commission's Rail Crossing Engineering Section (RCES) that the authorized work is completed, by submitting a completed Standard Commission Form G titled Report of Changes at Highway Grade Crossing and Separations.
3. The City shall comply with all applicable rules, including Commission General Orders and the California Manual on Traffic Control Devices, the mitigation measures required in the Final Environmental Impact Statement/Final Environmental Impact Report.
4. 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.
5. A request for extension of the three-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.
6. This application is granted as set forth above.

7. Application 08-08-010 is closed.

This order becomes effective 30 days from today.

Dated December 18, 2008, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners