

Decision **PROPOSED DECISION OF ALJS AYOADE AND KLINE****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the CITY OF SAN MATEO for an Order authorizing construction of two grade-separated vehicular underpasses and one pedestrian underpass at PCJPB MPs 19.92, 20.15 and 20.03 (DOT No. 973 108 V, 973 109C and 973 110W) in the City of San Mateo, County of San Mateo.

Application 17-07-006

DECISION GRANTING AUTHORIZATION TO THE CITY OF SAN MATEO TO CONSTRUCT TWO NEW GRADE-SEPARATED VEHICULAR CROSSINGS AND ONE GRADE-SEPARATED PEDESTRIAN CROSSING NEAR 25TH AVENUE AND THE HILLSDALE CALTRAIN STATION OVER THE PENINSULA CORRIDOR JOINT POWERS BOARD TRACKS IN THE CITY OF SAN MATEO, COUNTY OF SAN MATEO

Summary

Pursuant to Public Utilities Code Sections 1201 and 1202 and the California Public Utilities Commission (Commission) Rule of Practice and Procedure Rule 3.7, we grant the City of San Mateo authorization to construct two new vehicular crossings and one pedestrian crossing over the Peninsula Corridor Joint Powers Board's (PCJPB's or Caltrain's) tracks in the vicinity of 25th Avenue and the Hillsdale Caltrain Station in the City of San Mateo, County of San Mateo. The 28th Avenue vehicular crossing at PCJPB milepost (MP) 19.92 will be identified as Commission Crossing Number (No.) 105-19.92-B (United States Department of Transportation (US DOT No. 973108V)). The 29 1/2 Avenue pedestrian crossing at PCJPB MP 20.03 will be identified as Commission

Crossing No. 105E-20.03-BD (US Dot No. 973110W). The 31st Avenue vehicular crossing at PCJPB MP 20.15 will be identified as 105E-20.15-B (US DOT No. 973109C). This proceeding is closed.

1. Factual Background

The City of San Mateo (City) requests authority to construct two new grade-separated vehicular crossings and one grade-separated pedestrian crossing over the PCJPB's mainline tracks in the vicinity of 25th Avenue and the Hillsdale Caltrain Station ("the 25th Avenue Grade Separation Project"). Current rail operations in the vicinity of the 25th Avenue Grade Separation Project include two tracks carrying over 90 passenger trains per day, with trains travelling approximately 79 miles per hour at the crossings.

The 25th Avenue Grade Separation Project consists of "approximately one mile of new railroad grade separation, from Hillsdale Avenue to Route 92[,]" and the construction of three new railroad crossings; including a vehicular underpass at 28th Avenue, a pedestrian underpass at 29 1/2 Avenue and a vehicular underpass at 31st Avenue.¹ City proposes the three new railroad crossings to 1) improve public safety; 2) support transit-oriented development planned in this area of the City of San Mateo; and 3) address pedestrian access deficiencies at the existing Hillsdale Caltrain Station.

While this application only considers the portion of the project related to the three new railroad crossings, the 25th Avenue Grade Separation Project includes alteration of the existing at-grade crossing at 25th Avenue to a

¹ Application at 2-3.

grade-separated crossing,² construction of a new elevated center-board Caltrain station, grading and drainage improvements, relocation of existing PCJPB rails and a net expansion of parking spaces at the Hillsdale Caltrain station, among other things.

2. Procedural Background

City filed its Application on July 13, 2017. The Application appeared on the Commission's Daily Calendar on July 14, 2017. City coordinated with and served this Application upon the PCJPB.

Protests and responses to the Application were due on August 14, 2017. The Commission's Safety and Enforcement Division, Rail Crossing and Engineering Branch (SED) provided a response to the Application on July 28, 2017. No protests were received. The assigned Administrative Law Judges (Judge Ayoade and Judge Kline) (ALJs) held a prehearing conference on September 15, 2017 in San Francisco. The assigned Commissioner issued a scoping memo on September 28, 2017.

The Commission has jurisdiction over this Application under Public Utilities Code Sections 1201 and 1202, and Rule 3.7.

3. Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA), as amended, applies to discretionary projects to be carried out or approved by public agencies. (Public Resources Code Section 21000 *et seq.*) A basic purpose of CEQA is to

² The City received Commission approval to alter the 25th Avenue at-grade highway rail crossing (Commission Crossing No. 105E-19.70 and DOT No. 754910E) pursuant to General Order 88-B. *Re: General Order 88-B Request for Authority to Alter the 25th Avenue At-Grade Highway Rail Crossing, CPUC Crossing No. 105-E19.70 and NOT No. 754910E in the City of San Mateo, County of San Mateo* (Feb. 27, 2017).

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 has the exclusive authority to approve the project pursuant to Section 1202 of the Public Utilities Code), 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 either the public agency that carries out the project,³ or the one with the greatest responsibility for supervising or approving the project as a whole.⁴ Here, City is the lead agency for this project because the project is located on the Caltrain mainline and City is undertaking the project. The Commission is a responsible agency because it has jurisdiction to issue a permit for the project. 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.⁵

Caltrain determined the 25th Avenue Grade Separation Project was statutorily exempt under Public Resources Code Section 21080.13, which provides exemption from CEQA for "any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation."

On March 14, 2016, Caltrain filed a Notice of Exemption with the City showing the exemption status as statutory exemption. The Commission

³ CEQA Guidelines (Title 14 of the California Code of Regulations), § 15051(a).

⁴ CEQA Guidelines (Title 14 of the California Code of Regulations), § 15051(b).

⁵ CEQA Guidelines, §§ 15050(b) and 15096.

reviewed the Notice of Exemption and finds it adequate for our decision-making purposes.

4. Filing, Safety and Engineering Requirements

Pursuant to Rule 3.7, applications to construct a public road, highway or street across a railroad must be made the municipal, county, state or other authority that proposes the construction. In this application, the City proposes to undertake construction of the three new crossings. Therefore, City meets the requirements of Rule 3.7 because City is a municipal authority who may propose construction for a new public road, highway or street across a railroad.

Rule 3.7 also requires grade-separated applications to include a description of the project, including the rail milepost and legal or coordinate system description of the crossing as detailed in Rule 3.7(a); the crossing identification numbers of the nearest public crossing on each side of the proposed crossing under Rule 3.7 (b); various maps showing the location of the crossing, nearby feature as detailed in Rule 3.7 (d) and (e); and a profile of the crossing as detailed in Rule 3.7 (f). Upon review, the Commission finds City provided materials in its Application sufficient to satisfy City's requirements under Rule 3.7 (a) through (f).

Additionally, SED's response to the Application stated SED staff reviewed the Applicant's requirements for public roads across railroads under Rule 3.7 as well as safety and engineering requirements of the Commission under General Order 26-D. SED staff participated in a field diagnostic review meeting at the proposed crossing locations on January 25, 2017. SED staff also reviewed and analyzed the plans submitted with this Application on July 17, 2017. SED's response stated City's Application met the requirements of SED staff and Rule 3.7.

The Commission agrees with SED's recommendation. Accordingly, the Commission holds City's application is in compliance with the Commission's filing requirements, including Rule 3.7, and safety and engineering requirements of the Commission under General Order 26-D.

5. Conclusion

We conclude that the Application conforms to our rules for granting authority to construct public roads, highways or streets over railroads. According, we grant City the authority to construct one new vehicular crossing at 28th Avenue, one new vehicular crossing at 31st Avenue and one new pedestrian crossing at 29 1/2 Avenue subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

6. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

7. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner. Adeniyi A. Ayoade and Zita Kline are the co-assigned ALJs in this proceeding.

Findings of Fact

1. The City of San Mateo requests authority, under Public Utilities Code Sections 1201-1205, to construct two new grade-separated vehicular crossings and one new pedestrian crossing over two mainline tracks owned by the Peninsula Corridor Joint Powers Board in the City of San Mateo, in San Mateo county. The crossings are identified as Department of Transportation Numbers 973108V, 973109C and 973110W.

2. Notice of the application was published in the Commission's Daily Calendar on July 14, 2017.
3. Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch filed a response. No protests were filed.
4. There were no contested issues.
5. The crossing will comply with minimum clearing requirements under General Order 26-D.
6. The City of San Mateo is the lead agency for this project.
7. The project is exempt under the California Environmental Quality Act pursuant to Public Resources Code Section 21080.13.
8. The Peninsula Corridor Joint Powers Board filed a notice of exemption on the City of San Mateo, stating the proposed crossings are exempt under the California Environmental Quality Act.
9. The proposed crossing will provide safe public access to and from the Caltrain Hillsdale station and will result in increased efficiency of traffic, increased pedestrian accessibility and increased public safety in the vicinity of the proposed crossings.

Conclusions of Law

1. Safety, traffic, transportation and noise impacts related to rail crossings are within the scope of the Commission's permitting process.
2. The design features selected the City of San Mateo are consistent with General Order 26-D requirements.
3. The Commission is the lead agency for railroad crossings.
4. The project is exempt under the California Environmental Quality Act pursuant to Public Resources Code Section 21080.13.
5. The application is uncontested and a public hearing is not necessary.

6. 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 San Mateo is authorized to construct two new grade-separated vehicular crossings and one new grade separated pedestrian crossing over the Peninsula Corridor Joint Powers Board mainline track in the City of San Mateo, in San Mateo County.
2. The vehicular crossing at 28th Avenue, milepost 19.92, shall be identified as California Public Utilities Commission Crossing Number 105E-19.92-B and United States Department of Transportation Number 973108V.
3. The vehicular crossing at 31st Avenue, milepost 20.15, shall be identified as California Public Utilities Commission Crossing Number 105E-20.15-B and United States Department of Transportation Number 973109C.
4. The pedestrian crossing at 29 1/2 Avenue, milepost 20.03, shall be identified as California Public Utilities Commission Crossing Number 105E-20.03-BD and United States Department of Transportation Number 973110W.
5. The grade-separated vehicular and pedestrian-rail crossings shall have the crossing treatments and configuration described above and specified in the application and attachments.
6. The City of San Mateo shall comply with all applicable rules, including California Public Utilities Commission General Orders and the United States Department of Transportation's Americans with Disabilities Act Standards for Transportation Facilities.

7. The City of San Mateo shall notify the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch, at least five (5) business days prior to opening the grade-separated roadway structure. Notification must be made to rceb@cpuc.ca.gov.

8. Within 30 days after completion of the work under this order, the City of San Mateo shall notify the California Public Utilities Commission's Safety and Enforcement Division - Rail Crossings and Engineering Branch in writing, by submitting a completed California Public Utilities Commission Standard Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at <http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formg.htm>. This report may be submitted electronically to rceb@cpuc.ca.gov.

9. Within 30 days after completion of the work under this order, Peninsula Corridor Joint Powers Board shall notify the Federal Railroad Administration of the existence of the crossing by submitting a U.S. DOT CROSSING INVENTORY FORM, form FRA F6180.71 (inventory form). Concurrently, Peninsula Corridor Joint Powers Board shall provide a copy of the inventory form to the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch. This copy of the form may be submitted electronically to rceb@cpuc.ca.gov.

10. This authorization shall expire if not exercised within three years, unless time is extended or if the above conditions are not satisfied. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so requires.

11. A request for extension of the three-year authorization period must be submitted to the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings and Engineering Branch at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

12. The application is granted as set forth above.

13. Application 17-07-006 is closed.

This order is effective today.

Dated _____, at San Francisco, California.