

Decision 22-08-007 August 4, 2022

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of City of Roseville, Public Works Department, for an Order Authorizing to construct a grade separation of the Roseville Parkway Over Tracks Owned by Union Pacific Railroad at Railroad MP109.65 Valley Subdivision in the City of Roseville, Placer County, California.

Application 21-10-004

DECISION AUTHORIZING THE PUBLIC WORKS DEPARTMENT OF THE CITY OF ROSEVILLE TO CONSTRUCT PROPOSED GRADE-SEPARATED HIGHWAY-RAIL CROSSING IN THE CITY OF ROSEVILLE, IN PLACER COUNTY

This decision authorizes the Public Works Department of the City of Roseville to construct a grade-separated highway-rail overpass crossing of the Roseville Parkway over existing tracks owned by Union Pacific Railroad Company at Railroad Mile Post 109.65 Valley Subdivision in Roseville, in Placer County.

The proceeding is closed.

1. Background

On October 6, 2021, the Public Works Department of the City of Roseville (Applicant) filed Application (A.) 21-10-004 for authority to construct a grade-separated highway-rail overpass crossing of the Roseville Parkway over the existing tracks owned by Union Pacific Railroad Company (Union Pacific) at railroad Mile Post (MP) 109.65 Valley Subdivision in the City of Roseville

(Proposed Crossing). The Proposed Crossing will provide an east-west connection from Washington Boulevard to Foothills Boulevard in the City of Roseville.

A Response to the instant Application was filed by the Commission's Rail Safety Division (RSD) on November 10, 2021.

On November 17, 2021, a Motion for Party Status was filed by Union Pacific. The motion was granted on December 20, 2021.

On December 20, 2021, a telephonic prehearing conference was held, and on January 5, 2022, the assigned Commissioner issued a Scoping Memo and Ruling (Scoping Ruling) setting forth the scope of issues and procedural schedule.

2. Issues before the Commission

The issues to be determined are:

- a. Whether the Application meets the requirements of Rule 3.7 and whether the Commission should grant the requested authority to construct the Proposed Crossing;
- b. Whether the Application is in compliance with the California Environmental Quality Act (CEQA);
- c. Whether the Application aligns with or impacts the achievement of any of the nine goals of the Commission's Environmental and Social Justice (ESJ) Action Plan; and
- d. If the Application is approved, whether the Commission should require that the Proposed Crossing be completed within 36 months from the time of approval.

3. Safety, Engineering Requirements, and Compliance with Regulations

In this Application, Applicant requests authority to construct a grade separation of Roseville Parkway, an overpass, over existing tracks owned by Union Pacific at railroad MP 109.65 Valley Subdivision in the City of Roseville.

This type of rail crossing must comply with the requirements set forth in Rule 3.7 of the Rules of Practice and Procedure which states that:

Applications to construct a public road, highway, or street across a railroad must be made by the municipal, county, state, or other governmental authority which proposes the construction. Such applications shall be served on the affected railroad corporations, and shall contain the following information:

- a. The rail milepost and either a legal description of the location of the proposed crossing or a location description using a coordinate system that has accuracy comparable to a legal description.
- b. Crossing identification numbers of the nearest existing public crossing on each side of the proposed crossing.
- c. If the proposed crossing is at-grade,
 - (1) a statement showing the public need to be served by the proposed crossing;
 - (2) a statement showing why a separation of grades is not practicable; and
 - (3) a statement showing the signs, signals, or other crossing warning devices which applicant recommends be provided at the proposed crossing.
- d. A map of suitable scale (50 to 200 feet per inch) showing accurate locations of all streets, roads, property lines, tracks, buildings, structures or other obstructions to view for a distance of at least 400 feet along the railroad and 200 feet along the highway in each direction from the proposed crossing. Such map shall show the character of surface or pavement and width of same, either existing or proposed, on the street or road adjacent to the proposed crossing and on each side thereof.
- e. A map of suitable scale (1,000 to 3,000 feet per inch) showing the relation of the proposed crossing to

existing roads and railroads in the general vicinity of the proposed crossing.

- f. A profile showing the ground line and grade line and rate of grades of approach on all highways and railroads affected by the proposed crossing.”¹

Rules 3.7(c) is not applicable in this proceeding because the Proposed Crossing is not at-grade.² Instead, Applicant proposes to construct an overpass that will go over the track.

The Commission’s RSD, which is tasked to evaluate the safety of all requested rail crossings to the Commission, conducted a site visit, safety review, and attended a diagnostic meeting at the location of the Proposed Crossing. In its Response, RSD states that it finds no safety issues concerning the Proposed Crossing and concluded that the request complies with all applicable regulatory and safety requirements.³ In addition, the instant Application and documents filed in support thereof reflect all the required information required in the Commission’s Rules for such application.

We reviewed the information provided by Applicants as well as the Responses and reports filed by RSD and find that the instant Application complies with the Commission’s Rules and requirements relevant to the Proposed Crossing.

Specifically, the information provided by Applicant in its Application included the following information that shows compliance with the requirements set forth in Rule 3.7:

¹ Rule 3.7 Public Road Across Railroad.

² A rail crossing is at-grade when the railroad track crosses a road at the same level.

³ Response to Application at 4.

- (a) The rail milepost and legal description of the location of the proposed rail crossing: Roseville Parkway Overhead Crossing, Mile Post 109.65 at Latitude 38.788 and Longitude -121.308;
- (b) Crossing identification numbers of the nearest existing public crossings;
- (c) A map showing the required locations specified in Rule 3.7(d);
- (e) A map in compliance with Rule 3.7(e) showing the relation of the proposed crossing to existing roads and railroads in the general vicinity; and
- (f) A profile in compliance with Rule 3.7(f) showing the ground and grade lines and rate of grades of approach specified in Rule 3.7(f).

The Application was served on Union Pacific as required by Rule 3.7. Also, the Proposed Crossing complies with the requirements set forth in Section 2.1 of General Order (GO) 26-D which provides that the minimum overhead clearance above railroad tracks to be used for transporting freight cars shall be 22 feet and 6 inches.⁴

In this case, Applicant proposes a temporary vertical clearance of 21 feet and 6 inches, but the final Proposed Crossing shall have a vertical clearance of 24 feet and 1 inch which is above the minimum overhead clearance prescribed in GO 26-D.⁵

Based on the foregoing, we find that the Proposed Crossing complies with the Commission's requirements, and there are no outstanding safety issues associated with the Proposed Crossing. The Proposed Crossing will provide an east-west connection from Washington Boulevard to Foothills Boulevard in the

⁴ GO 26-D Section 2.1.

⁵ Response to Application Attachment A at A-2.

City of Roseville and the resulting grade separations will allow for safe movement of rail and roadway transportation. Additionally, RSD opines that the Proposed Crossing will be safer than an at-grade crossing because train and vehicular traffic will be separated.⁶

4. Environmental Review

CEQA⁷ requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible. CEQA applies to discretionary projects to be carried out or approved by public agencies.

Pursuant to CEQA, the lead agency is the public agency that carries out the project which in this case is the Applicant. The Commission is considered as a responsible agency because it has authority to issue the requested authorizations to construct the Proposed Crossing. As a responsible agency, the Commission must consider the lead agency's environmental impact documents and findings before acting on or approving a project.⁸ The Commission is also responsible for mitigating or even avoiding direct environmental effects of the project or portion thereof that it approves.

Here, Applicant, as the lead agency, examined the environmental impacts of the Proposed Crossing, if any, as part of its environmental review of the Roseville Parkway Extension Project (Project). The Project entails construction a four-lane bridge overpass for pedestrians, bicycles, and vehicles, over the

⁶ *Id* at 2.

⁷ Section 2100 *et. seq.* of the Public Resources Code; and CEQA Guidelines implementing the statute can be found in Title 14, Section 15000 *et. seq.* of the California Code of Regulations.

⁸ Decision (D.) 19-10-042 at 5.

Union Pacific's Valley Substation tracks located at MP 109.65 at Industrial Avenue in Roseville, California. The overpass eliminates an existing conflict point where pedestrians, bicyclists, and vehicles must cross the existing Union Pacific railway tracks.

In August 2020, Applicant prepared an Initial Study and Mitigated Negative Declaration (Negative Declaration) for the Project. On September 16, 2020, the City's Council approved the Negative Declaration.

The Negative Declaration includes conditions for mitigation measures including a mitigation plan and reporting plans. Specifically, the Negative Declaration identifies temporary impacts during construction including: air pollution from construction equipment; sensitive wildlife habitat for the western spadefoot; entrapment of wildlife in excavated areas; training for construction staff for environmental awareness; disturbance of avian nesting areas for migratory and predatory birds as well as encountering subsurface human remains; cultural resources; fossils; and Native American cultural resources during excavation.

However, for each potential temporary impact, the Negative Declaration provides for mitigation measures. The Negative Declaration found that the Project, combined with these mitigations measures, would not result in any significant environmental impacts. Moreover, the construction-related impacts associated with the Proposed Crossing, are a portion of overall construction related environmental impacts identified in the Negative Declaration and mitigated by the required mitigation measures.

We reviewed the Negative Declaration for the Project, which includes environmental review of the Proposed Crossing, and find it to be adequate for our decision-making purpose. The Commission adopts the mitigation measures

detailed in the Negative Declaration, which apply to the entire Project, including the Proposed Crossing.

Upon issuance of this decision and in compliance with 14 Cal. Code Regs. §§ 15096(h) and 15096(i), the Commission's Energy Division will file a Notice of Determination with the CEQA Clearinghouse certifying that the Commission considered the environmental documents related to the Proposed Crossing.

5. Alignment with the Commission's Environmental and Social Justice Action Plan

In February 2019, the Commission adopted the ESJ Action Plan to serve as a roadmap for implementing the Commission's vision to advance equity in its programs and policies for ESJ or disadvantaged communities.⁹ ESJ Action Plan sets forth nine goals toward expanding public inclusion in Commission decision-making and improving services to targeted communities across California.

The Proposed Crossing does not have any economic and environmental impacts that are contrary to the Commission's ESJ Action Plan and goals. The Project also does not negatively impact disadvantaged neighborhoods and communities in Roseville, specifically.

As is the case with most construction projects, the Project, including the Proposed Crossing, will involve some degree of construction noise and pollution and perhaps additional traffic in the area from construction and worker vehicles. However, these are temporary issues that can be expected in all construction projects and as discussed in the section on Environmental Review, the Negative Declaration contains sufficient mitigation measures to minimize these impacts.

⁹ The ESJ Action Plan was approved February 21, 2019. Version 2.0 of the ESJ Action Plan was approved April 7, 2022.

In addition, the Proposed Crossing is part of the larger Project which is a multi-lane arterial roadway providing a connection from Northeast Roseville to East Roseville and Granite Bay. This high-capacity roadway project will improve access within the City of Roseville and benefit residents once the Project is completed.

Based on the foregoing, we conclude that the Proposed Crossing does not negatively impact the achievement of any of the nine goals of the Commission's ESJ Action Plan.

6. Conclusion

As discussed in the preceding sections, the Proposed Crossing and the instant Application comply with the requirements set forth in Rule 3.7 and Section 2.1 of GO 26-D. The instant Application also complies with CEQA and does not contravene the achievement of any of the nine goals of the Commission's ESJ Action Plan.

The authorization requested in the instant application should therefore be granted. Applicant should be given a period of 36 months from the date of this decision within which to complete the proposed rail crossing.

We also find it reasonable to adopt the recommended language proposed by RSD for the ordering paragraphs in this decision, to which Applicant did not object.

7. Waiver of the Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, as provided in Rule 14.6(c)(2) of the Commission's Rules, the otherwise applicable 30-day public review and comment period for this decision is waived.

8. Assignment of Proceeding

Commissioner Genevieve Shiroma is the assigned Commissioner and Rafael Lirag and Patrick Petersen are the assigned Administrative Law Judges for the proceeding.

Findings of Fact

1. On October 6, 2021, Applicant filed A.21-07-014 for authority to construct a grade-separated highway-rail overpass crossing of the Roseville Parkway, creating an east-west connection from Washington Boulevard to Foothills Boulevard, over the existing tracks owned by Union Pacific at railroad MP 109.65 Valley Subdivision in the City of Roseville, in Placer County.
2. RSD conducted a safety review and site inspection of the Proposed Crossing location, reviewed the instant application and supporting materials, and determined that the application complies with all applicable Commission Rules and GOs and recommended approval of the Proposed Crossing.
3. Applicant, as lead agency under CEQA, prepared a Negative Declaration for the Project, which includes the Proposed Crossing.
4. The Negative Declaration identified some temporary impacts during construction of the Project, including the Proposed Crossing, such as increased air pollutants, need to protect sensitive habitats from construction activities, monitoring the effects on wildlife, and taking measures to protect resources that may be unearthed during Project excavation.
5. The Negative Declaration identified measures to mitigate the identified impacts and found that the Project, combined with the mitigation measures, would not result in any significant environmental impacts.

7. The construction-related impacts associated with the Proposed Crossing and environmental impacts of the Project identified in the Negative Declaration are mitigated by the required mitigation measures.

8. The Proposed Crossing includes bicycle lanes and pedestrian paths which reduce traffic congestion and related emissions pollution, creates a safer crossing for all groups by separating train traffic from other modes of transportation and increases access for disadvantaged neighborhoods in Roseville.

9. The Proposed Crossing does not negatively impact disadvantaged neighborhoods and communities in the City of Roseville.

10. The Proposed Crossing results in a more fully integrated multi-modular transportation system that better serves the public and inhabitants of Roseville.

Conclusions of Law

1. Application 21-10-004 should be approved and Applicant's requested authority to construct the Proposed Crossing should be granted.

2. Application 21-10-004 and the Proposed Crossing meet all of the applicable Rules and Commission's safety requirements in GO 26-D.

3. The Negative Declaration for the Project is adequate for the Commission's decision-making purpose.

4. Application 21-10-004, supported by the Negative Declaration, complies with the requirements of CEQA.

5. The Proposed Crossing does not contravene the achievement of any of the nine goals of the Commission's ESJ Action Plan.

6. Hearings are not necessary.

7. Applicant should be granted a period of 36 months, which is a reasonable time, to complete construction of the proposed rail crossing.

8. Application 21-10-004 should be closed.

O R D E R

IT IS ORDERED that:

1. Application 21-10-004 filed by the Public Works Department of the City of Roseville is approved.

2. The Public Works Department of the City of Roseville is authorized to construct a new overpass grade-separated highway-rail crossing of the Roseville Parkway over an existing Union Pacific Railroad track at Milepost 109.65 in the City of Roseville, Placer County, California.

3. The grade-separated highway-rail crossing authorized in Ordering Paragraph 2 shall be identified as California Public Utilities Commission Crossing Number 001C-109.65-A and United States Department of Transportation Crossing Number 412501T.

4. The overpass grade-separated highway-rail crossing authorized in Ordering Paragraph 2 shall have the configuration specified in Application 21-10-004 and its attachments.

5. The Public Works Department of the City of Roseville shall comply with all applicable rules, including applicable Commission General Orders and California Manual on Uniform Traffic Control Devices.

6. The Public Works Department of the City of Roseville shall notify the Commission's Rail Crossings and Engineering Branch of the Rail Safety Division at least thirty (30) days prior to the opening of the crossing. Notification shall be made by email to rceb@cpuc.ca.gov.

7. Union Pacific Railroad Company shall notify all operating railroads that will traverse the proposed crossing of the temporary impaired vertical clearance.

8. The Public Works Department of the City of Roseville (Roseville) shall notify Union Pacific Railroad Company and the Railroad Operations and Safety

Branch and Rail Crossings and Engineering Branch of the Commission's Rail Safety Division at least fifteen (15) days but not more than thirty (30) days in advance of the date when Roseville creates the temporarily reduced vertical clearance. Roseville shall submit the notification electronically to the Rail Safety Division's Railroad Operations and Safety Branch and Rail Crossings Engineering Branch at rceb@cpuc.ca.gov.

9. Within thirty (30) days after completion of the work authorized in this Decision, the Public Works Department of the City of Roseville shall notify the Rail Crossings and Engineering Branch of the Commission's Rail Safety Division that the authorized work is complete by submitting a California Public Utilities Commission Standard Form G Report of Completed Changes at Rail Crossings. Form G requirements and forms can be obtained from the California Public Utilities Commission web site at <http://www.cpuc.ca.gov/Crossings>. The completed report must be submitted via e-mail to rceb@cpuc.ca.gov.

10. Within thirty (30) days after completion of the work authorized in this Decision, Union Pacific Railroad Company shall provide a copy of the United States Department of Transportation Crossing Inventory Form (FRA F6180.71) to the California Public Utilities Commission's Rail Safety Division, Rail Crossings and Engineering Branch. The copy of the form may be submitted to rceb@cpuc.ca.gov.

11. The authorization granted in this Decision shall expire if the work is not complete within thirty-six (36) months after the issuance of this Decision, unless time is extended or if the above conditions are not satisfied. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

12. A request for extension of the thirty-six (36) month time-period authorization specified in the preceding Ordering Paragraph must be submitted

to the Rail Crossings and Engineering Branch of the Commission's Rail Safety Division at least thirty (30) days before the expiration of thirty-six-month period.

13. Application 21-10-004 is closed.

This order is effective today.

Dated August 4, 2022, at San Francisco, California.

ALICE REYNOLDS

President

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE L. HOUCK

JOHN REYNOLDS

Commissioners