

Decision 09-10-044 October 29, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Sacramento to construct a new double diamond crossing at the two UPRR mainline tracks east of the Sacramento River and west of I-5 in the vicinity of Milepost No. 88.74 in the Roseville Service Unit Martinez Subdivision of the Union Pacific Railroad in an unincorporated area of the City of Sacramento, State of California.

Application 09-08-015
(Filed August 20, 2009)

**DECISION GRANTING AUTHORIZATION TO THE CITY OF
SACRAMENTO TO CONSTRUCT A NEW AT-GRADE DOUBLE
DIAMOND TRACK-OVER-TRACK CROSSING OF THE TRACKS OF
THE UNION PACIFIC RAILROAD IN THE CITY OF SACRAMENTO**

Summary

This decision grants the City of Sacramento (City) authorization to construct a new at-grade double diamond track-over-track crossing across the two mainline tracks of Union Pacific Railroad (UPRR) in the City, Sacramento County to replace an existing track-over-track crossing located further west. The new crossing will be identified as CPUC Crossing No. 001A-88.74-T.

Discussion

The City proposes to construct a new at-grade double diamond track-over-track crossing, relocating an existing double diamond track-over-track crossing to accommodate track realignments that are part of the Sacramento Railyards Redevelopment Project. The crossing will be shifted further east by relocating and extending the industrial track currently used by the California State Railroad

Museum (CSRM) over tracks owned by UPRR and operated over by Capitol Corridor Joint Powers Authority (CCJPA), Amtrak, and UPRR.

The new track-over-track crossing is required to allow CSRM access from its facilities to the national railroad system and so that freight service may be maintained to the lone industrial customer remaining on the CSRM tracks, south of the CSRM. CSRM currently accesses the national rail system from Track 150 that extends across the same UPRR mainline tracks further west, closer to the Sacramento River. That track extends through the existing rail yards and eastward at-grade across 7th Street to connect with the UPRR mainline. The new track connection to the UPRR mainline will originate within the rail yards, thereby allowing the removal of Track 150 and the 7th Street at-grade highway-rail crossing once the double diamond track relocation project is completed.

Rail service on the mainline tracks at this proposed crossing will be approximately 16 passenger trains per day and 32 freight trains per day at a maximum speed of 50 mph. CSRM rail traffic on the industrial track will be approximately 2 trains per week at a maximum speed of 10 mph.

Interlocking train controls, which prevent trains from approaching the crossing from different tracks simultaneously, and any additional protection of the double diamond crossing will be designed and installed by UPRR in accordance with their design standards for track-over-track crossings.

Minimum vertical clearance above the proposed double diamond crossing, to the underside of the I Street approach ramp will be approximately 19 feet 6 inches. Although this is less than the minimum requirements of Commission General Order 26-D of 22 feet 6 inches, this restricted clearance is an existing condition that has been in place since the overhead I Street structure was built in 1913. Due to the nearby proximity of the I Street Bridge over the Sacramento

River, which the rail line shares with motor vehicle traffic, the structure above cannot be raised and the track bed cannot be lowered. UPRR is aware of the restricted clearance and has stated they have no objections.

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 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,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, the City is the lead agency for this project because the project is within their jurisdiction and subject to their review and approval and 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

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

² CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

consider the lead agency's environmental documents and findings before acting on or approving this project.³

On August 20, 2007, the City filed the Railyards Specific Plan Draft Environmental Impact Report (DEIR) with the State Clearinghouse. Between August 20, 2007 and October 4, 2007, the City received written and oral comments on the DEIR. In November 2007, the City issued its Railyards Specific Plan Final Environmental Impact Report (FEIR) of which the track-over-track crossing is a part. The City prepared an Initial Study (IS) and adopted a Mitigated Negative Declaration (MND) on May 11, 2009. A Notice of Determination (NOD) filed with the Sacramento County Clerk on June 8, 2009 indicated the IS and MND had been prepared for the project, and stated that the Railyards project as a whole will have a significant impact on the environment and that mitigation measures reducing the impacts to a less-than-significant level were made a condition of the approval of the project. There were no impacts identified that relate to safety, transportation and noise in the track-over-track crossing part of the Railyards project.

The Commission reviewed and considered the City's IS, NOD and MND as they related to the track-over-track crossing and finds them adequate for our decision-making purposes.

Filing Requirements and Staff Recommendations

This application is in compliance with the Commission's filing requirements including Rule 3.10 of Rules of Practice and Procedure, which relates to the construction of a railroad across a railroad.

³ CEQA Guidelines, Sections 15050(b) and 15096.

The Commission's Consumer Protection and Safety Division – Rail Crossings 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 two years.

Categorization and Need for Hearings

In Resolution ALJ 176-3240, dated September 10, 2009, and published in the Commission's Daily Calendar on September 11, 2009, 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 176-3240.

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) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is 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 August 27, 2009. 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 remove an existing and construct a new at-grade double diamond track-over-track crossing by relocating and extending the industrial track used by the CSRM over two mainline tracks owned by UPRR and operated over by CCJPA, Amtrak, and UPRR as part of the Sacramento Railyards Redevelopment Project in the City, Sacramento County. The new crossing will be identified as CPUC Crossing No. 001A-88.74-T.

3. The existing General Order 26-D impaired clearance condition of 19 feet 6 inches between the top of rail and the I Street approach ramp overpass is authorized to persist at this location, as the involved structures are not being modified for the relocation of this track-over-track crossing.

4. The City is the lead agency for this project under CEQA, as amended.

5. On May 11, 2009, The City prepared an MND for this project and issued an NOD on June 8, 2009, that stated that the Railyards project as a whole will have a significant impact on the environment and that mitigation measures reducing the impacts to a less-than-significant level were made a condition of the approval of the project. There were no impacts identified that relate to safety, transportation and noise in the track-over-track crossing part of the project.

6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's FEIR including the NOD and MND.

7. With planned mitigations implemented, the project will not have a significant effect on the environment.

Conclusions of Law

1. The Initial Study, Mitigated Negative Declaration (with Addendum), and Notice of Determination as required by CEQA and as prepared by the City, 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 is authorized to relocate the at-grade double diamond track-over-track crossing across the two mainline tracks of Union Pacific Railroad in the City of Sacramento, in Sacramento County. The crossing will be identified as CPUC Crossing No. 001A-88.74-T.
2. The existing impaired overhead clearance condition of 19 feet 6 inches is authorized to persist until such time as the railroad bridge or the I Street overpass is modified or replaced.
3. The double diamond crossover shall be equipped with interlocking devices and protection designed and installed by Union Pacific Railroad.
4. The City of Sacramento shall notify the Commission's Consumer Protection and Safety Division – Rail Crossing Engineering Section at least five (5) business days prior to opening the crossing. Notification should be made to rces@cpuc.ca.gov.
5. Within 30 days after completion of the work under this order, the Union Pacific Railroad shall notify Rail Crossing Engineering Section in writing, by submitting a completed 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 CPUC web site Form G page at <http://www.cpus.ca.gov/formg>. This report may be submitted electronically to rces@cpuc.ca.gov as outlined on the web page.

6. The City of Sacramento shall comply with all applicable rules, including Commission General Orders.

7. This authorization shall expire if not exercised within two 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.

8. A request for extension of the two-year authorization period must be submitted to Rail Crossing Engineering Section at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

9. The application is granted as set forth above.

10. Application 09-08-015 is closed.

This order becomes effective 30 days from today.

Dated October 29, 2009, at San Francisco, California.

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