

Decision 09-10-038 October 29, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the San Diego Association of Governments (SANDAG) to construct a crossing at separated grades adjacent and parallel to Grossmont Center Drive between Grossmont Transit Center and the commercial area immediately to the southeast, and over the tracks of the San Diego Metropolitan Transit System (MTS) in the City of La Mesa, County of San Diego, California.

Application 09-04-017
(Filed April 27, 2009)

DECISION GRANTING AUTHORIZATION TO SAN DIEGO ASSOCIATION OF GOVERNMENTS TO CONSTRUCT A GRADE-SEPARATED PEDESTRIAN-RAIL CROSSING OVER THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM TRACKS IN THE CITY OF LA MESA, COUNTY OF SAN DIEGO

Summary

This decision grants the San Diego Association of Governments (SANDAG) authorization to construct a grade-separated pedestrian-rail crossing over the San Diego Metropolitan Transit System (MTS) tracks in the City of La Mesa, San Diego County. The new crossing is to be identified by CPUC Crossing No. 036D-13.91-AD.

Discussion

SANDAG proposes to construct a pedestrian crossing at separated grades over two existing railroad tracks owned by the MTS, adjacent to and east of the existing Grossmont Center Drive grade-separated overcrossing, CPUC Crossing No. 036D-13.90-A. The existing tracks are operated by the San Diego Trolley Inc.

for Orange and Green Line Trolley service and by the San Diego and Imperial Valley Railroad for freight operations.

The pedestrian overpass is being proposed due to poor and non-American's with Disabilities Act compliant accessibility at the site. Trolley patrons currently navigate a steep and long set of wooden stairs to access major residential, commercial, retail, medical, and employment facilities. This trolley station is also site of a Transit Oriented Development project, which is a 527-unit residential apartment complex currently under construction. The proposed crossing will serve this complex with access to the Grossmont Shopping Center and the Grossmont Hospital at the top of the embankment.

The minimum vertical clearance over the tracks from the bottom of the grade-separated structure to top of rail will be 33 ft 10 in. The design and construction of the overpass grade-separation structure shall comply with the minimum clearance requirements set forth in California Public Utilities Commission General Order 26-D.

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 of La Mesa (City) is the lead agency for this project because the project is within its borders and subject to its 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 consider the lead agency's environmental documents and findings before acting on or approving this project.³

The construction of the grade-separated pedestrian crossing was proposed and considered as part of the City's review and approval of the transit-oriented development, the Grossmont Trolley Court Apartments. The City prepared a Mitigated Negative Declaration, finding that, with mitigations the project would not have a significant effect on the environment. As a result the City filed a Notice of Determination with the Office of the San Diego County Clerk dated October 3, 2005.

The lone significant impact relating to safety, traffic/transportation, and noise pertains to left-turn traffic queues at four intersections adjacent to the project. Mitigations, including modifications to traffic lane configuration and pavement markings which reduce the impacts of the project at these locations to less-than-significant, were made as a condition of approval of the project.

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).

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

The Commission reviewed and considered the Mitigated Negative Declaration adopted by the City and finds it adequate for our decision-making purposes.

Filing Requirements and Staff Recommendation

The 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 public highway across a railroad.

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 plans submitted with the application, 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 176-3233, dated May 7, 2009, and published in the Commission Daily Calendar on May 8, 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 176-3233.

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 May 8, 2009. There are no unresolved matters or protests. A public hearing is not necessary.
2. The SANDAG requests authority, under Public Utilities Code Sections 1201-1205, to construct a grade separated pedestrian-rail crossing.
3. The City is the lead agency for this project under CEQA, as amended.
4. The City prepared a Mitigated Negative Declaration for this project and issued a Notice of Determination in approving the project, finding the project, with mitigations, would not have a significant effect on the environment.
5. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Notice of Determination.
6. The project, with mitigations, will not have a significant effect on the environment.

Conclusions of Law

1. The Mitigated Negative Declaration prepared by the City as the documentation required by CEQA for the project is 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 San Diego Association of Governments is authorized to construct a grade-separated pedestrian-rail crossing to be identified as CPUC Crossing No. 036D-13.91-AD, in the City of La Mesa, County of San Diego.

2. The San Diego Association of Governments 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.

3. Within 30 days after completion of the work under this order, the San Diego Association of Governments 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.

4. The San Diego Association of Governments shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

5. 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.

6. A request for extension of the three-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.

7. The application is granted as set forth above.

8. Application 09-04-017 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