

Decision 11-05-039 May 26, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California Department of Transportation to construct a drainage culvert and pedestrian undercrossing structure under the Union Pacific Railroad track located in the community of La Conchita, County of Ventura, California.

Application A.11-03-005
(Filed March 9, 2011)

**DECISION GRANTING AUTHORIZATION TO THE CALIFORNIA
DEPARTMENT OF TRANSPORTATION TO CONSTRUCT A PEDESTRIAN
UNDERCROSSING STRUCTURE BENEATH THE UNION PACIFIC
RAILROAD TRACK LOCATED IN THE COMMUNITY OF LA CONCHITA,
COUNTY OF VENTURA**

Summary

This decision grants the California Department of Transportation authorization to construct a new grade-separated pedestrian crossing under the Union Pacific Railroad track located in the community of La Conchita, County of Ventura, California. The new crossing is to be identified by CPUC Crossing No. 001E-382.83-BD and DOT No. 427712J.

Discussion

The California Department of Transportation (Caltrans) proposes to construct a drainage culvert and a new pedestrian-rail crossing under the Union Pacific Railroad (UPRR) mainline track in the La Conchita area of Ventura County. The pedestrian crossing is part of Caltrans's project to add a High occupancy Vehicle lane in each direction of the US-101 from just south of Mobile

Pier Road underpass in Ventura County, to just south of Casitas Pass Road in Santa Barbara County, for a total project length of approximately 6 miles.

The larger project is to provide additional capacity on the US-101 to minimize vehicle delay and to reduce traffic congestion by providing a high occupancy vehicle lane. The project will also facilitate the flow of goods and services, as well as improve operations along US-101 in the surrounding area. As part of the project, and to provide a safe passage for pedestrians across US-101 and the UPRR mainline tracks, Caltrans will also construct a grade-separated pedestrian crossing under the freeway and UPRR mainline tracks.

The new pedestrian crossing and associated fencing will provide increased railroad safety in the vicinity of the La Conchita and Mussel Shoals community. Currently pedestrians traveling to the beach either traverse the 4-lane highway (US-101) surface or cross underneath the tracks and US-101 via an existing state-maintained drainage culvert under the tracks and freeway.

Caltrans proposes to modify the existing drainage culvert in its current location, as well as construct the pedestrian tunnel adjacent to and just north of the drainage culvert. The construction of the pedestrian crossing will improve public safety and provide for safe pedestrian movements across the tracks and US-101 in the area.

The crossing will be known as the La Conchita Pedestrian crossing. In addition to UPRR trains, the National Railroad Passenger Corporation (Amtrak) operates passenger trains over this line. Approximately twelve (12) passenger trains per day at a maximum speed of 55 MPH and one (1) freight train per day at a maximum speed of at 55 MPH operate over these tracks.

UPRR tracks run parallel to the highway, approximately 50 feet east of the northbound edge of pavement of US-101 and 62 feet from the western edge of pavement of West Surfside Street, a residential freeway frontage road in La

Conchita. The railroad right-of-way is raised one to five feet above the adjacent grade. The proposed new CPUC Crossing Number will be 001E-382.83-BD. The reconstruction of the 8-foot wide by 4-foot box drainage culvert located between Oxnard Avenue and Sunland Avenue will remain in the same location. It will have an opening of eight feet tall in the inland side and four feet tall at the ocean side. An adjacent tunnel will be constructed to the north of the drainage culvert for the pedestrian-rail crossing under UPRR tracks and US-101. The nearest crossing to the south is the highway-rail crossing of Santa Barbara Avenue (CPUC Crossing No 001E-383.10) and the nearest crossing to the north is the grade-separated crossing of Rincon Point Underpass (CPUC Crossing No 001E-380.85-B).

The proposed pedestrian-rail crossing will consist of an 8 (eight) foot wide tunnel under one set of UPRR railroad tracks located on an overhead bridge structure. There will be a minimum vertical clearance within the tunnel of 8 (eight) feet from the top of the tunnel to the pathway surface below.

Americans with Disabilities Act (ADA) compliant walkways will be installed on the both approaches to the pedestrian-rail crossing. North of the crossing on the inland side, a 5 (five) foot wide gently descending walkway, approximately 95 feet in length, will lead from the connection to the local street network, down to the tunnel entrance. The pathway connects to the curb line of West Surfside Street, a residential street in the Mussel Shoals community of La Conchita, between Santa Paula Street and North Sunland Avenue. At the south end of the pedestrian tunnel, the walkway will fork into two paths. One path turns west from the fork to an ascending ramp that slopes up to the beach for approximately 160 feet. The other path extends in the east direction from the pathway approximately 60 feet then a sharp right for approximately 20 feet where it will connect to the beach.

In addition, a 6-foot-high, chain-link fence will be installed on the northwest side of the tracks, between the residential community and the tracks. The fence will extend along the railroad right-of-way from just south of the tunnel location to the north, just beyond Santa Paula Street. Fencing may be extended further north, pending further discussions with UPRR. The fencing will channel and direct pedestrians to the legitimate pedestrian-rail crossing location. Additionally, lighting will be provided for the entrance areas, sidewalks and tunnel, to improve visibility and safety.

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 Caltrans is the lead agency for this project, and the

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).

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

Pursuant to CEQA and the National Environmental Policy Act (NEPA),⁴ Caltrans prepared an environmental document titled *Ventura/Santa Barbara 101 HOV Project, Initial Study/Environmental Assessment with Finding of No Significant Impact (IS/EA FONSI)*, which identifies environmental impacts and associated mitigation measures related to the Ventura/Santa Barbara 101 HOV Project and new pedestrian-rail crossing. Caltrans approved the joint CEQA and NEPA document on December 12, 2008.

To satisfy NEPA requirements, the Caltrans determined in their (IS/EA FONSI, that the proposed project would have no significantly adverse effect on the environment because the identified mitigation measures would reduce the potential effects to less-than-significant levels.

Under CEQA, on December 17, 2008, the California Department of Transportation adopted a Notice of Determination (NOD) indicating an initial study for the proposed project would have a significant effect on the environment, but any potential impacts would be reduced to less-than-significant with implementation of identified mitigation measures. Therefore, Caltrans adopted a Mitigated Negative Declaration (MND) for the project and a

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

⁴ 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.

Mitigation Monitoring and Reporting Program (MMRP) was made a condition of approval for the project.

No significant impacts were identified under CEQA, relating to safety or traffic/transportation. However, noise was identified as a potentially significant impact identified in the MND or MMRP. For the resulting increase in noise levels, the potential effects would be reduced to less-than-significant levels through the addition of sound walls as a mitigation measure. Potential impacts affecting the scenic resources in the area were identified, but with proposed landscape and aesthetic treatments, the effects would be minimized.

The Commission reviewed and considered the IS/EA FONSI, MND and MMRP 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 176-3271 dated March 24, 2011, and published in the Commission Daily Calendar on March 11, 2011, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these

developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3271.

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 March 11, 2011. There are no unresolved matters or protests. A public hearing is not necessary.
2. The California Department of Transportation (Caltrans) requests authority, under Public Utilities Code Sections 1201-1205, to construct a new grade-separated pedestrian-rail crossing, to be identified as CPUC Crossing No. 001E-382.83-BD and DOT No. 427712J under UPRR's mainline track.
3. The Caltrans is the lead agency for this project under CEQA and NEPA, as amended.
4. Caltrans prepared, pursuant to CEQA and NEPA, an Initial Study/Environmental Assessment with Finding of No Significant Impact [IS/EA FONSI] for the Ventura/Santa Barbara 101 HOV Project on December 12, 2008.
5. In the IS/EAFONSI, it was determined that the proposed project would have no significantly adverse effect on the environment because identified mitigation measures would reduce the potential effects to less-than-significant levels.

6. Caltrans also performed a CEQA analysis as part of the IS/EA FONSI, which identified several environmental impacts.

7. Under CEQA, Caltrans adopted a Notice of Determination (NOD) indicating that the project will have a significant effect on the environment, mitigations were made a part of the approval, and adopted a Mitigated Negative Declaration (MND) for the project and a Mitigation Monitoring and Reporting Program (MMRP) was made a condition of approval for the project.

8. The significant impacts identified under CEQA, relating to areas under the Commission's jurisdiction pertain to noise. Caltrans adopted reasonable and feasible mitigations to reduce noise impacts to less-than-significant levels with implemented mitigation measures.

9. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's IS/EA FONSI, MND and MMRP.

10. Safety and traffic/transportation are within the scope of the Commission's permitting process. The lone significant impact would be an increase noise levels, but with the addition of sound walls would be reduced to acceptable levels.

Conclusions of Law

1. The IS/EA FONSI, MND and MMRP prepared by the California Department of Transportation 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 California Department of Transportation is authorized to construct a new grade-separated pedestrian-rail crossing under the Union Pacific Railroad

track located in the community of La Conchita, County of Ventura, California. The new crossing is to be identified by CPUC Crossing No. 001E-382.83-BD and DOT No. 427712J.

2. The California Department of Transportation shall notify the Union Pacific Railroad and the Los Angeles office of Commission's Consumer Protection and Safety Division – Rail Crossing Engineering Section (RCES) at least five (5) business days prior to opening of the crossing for public use. Notification should be made to rces@cpuc.ca.gov.

3. Within 30 days after completion of the work under this order, Caltrans shall notify RCES 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.cpuc.ca.gov/formg>. This report may be submitted electronically to rces@cpuc.ca.gov as outlined on the web page.

4. Within 30 days after completion of the work under this order, the Union Pacific Railroad shall notify the Federal Railroad Administration of the existence of the new grade-separated crossing by submitting a completed U.S.DOT CROSSING INVENTORY FORM, form FRA F6180.71, for the new grade-separation structure. A copy of that submittal is to be provided concurrently to the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section. The form may be submitted electronically to rces@cpuc.ca.gov.

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

6. 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.

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

8. The application is granted as set forth above.

9. Application A.11-03-005 is closed.

This order becomes effective 30 days from today.

Date May 26, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK FERRON

Commissioners