

Decision 12-06-008 June 7, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Port of Los Angeles to construct a grade separation at an existing railroad operated by Pacific Harbor Lines, Inc. The proposed Main Viaduct Bridge (Center Crossing) grade separation is located approximately 0.45 mile south of the intersection of the North Access Road and Harry Bridges Avenue at rail milepost 1.9 located in the San Pedro community of Los Angeles (new DOT # 931 15 1K) .

Application 12-02-002
(Filed February 2, 2012)

(Not Consolidated)

Application of the Port of Los Angeles to construct a grade separation at an existing railroad operated by Pacific Harbor Lines, Inc. The proposed North Access Road grade separation is located approximately 0.15 mile south of the intersection of the North Access Road and Harry Bridges Avenue at rail milepost 1.8 located in the San Pedro community of Los Angeles (new DOT # 931 155 M)

Application 12-02-003
(Filed February 2, 2012)

(Not Consolidated)

Application of the Port of Los Angeles to construct a grade separation at an existing railroad operated by Pacific Harbor Lines, Inc. The proposed Main Viaduct Bridge (North Crossing) grade separation is located approximately 0.40 mile south of the intersection of the North Access Road and Harry Bridges Avenue at rail milepost 1.9 located in the San Pedro community of Los Angeles (new DOT # 931 152 S).

Application 12-02-004
(Filed February 2, 2012)

(Not Consolidated)

Application of the Port of Los Angeles to construct a grade separation at an existing railroad operated by Pacific Harbor Lines, Inc. The proposed Main Viaduct Bridge (South Crossing) grade separation is located approximately 0.50 mile south of the intersection of the North Access Road and Harry Bridges Avenue at rail milepost 1.8 located in the San Pedro community of Los Angeles (new DOT # 931 154 F).

Application 12-02-005
(Filed February 2, 2012)

(Not Consolidated)

**DECISION GRANTING AUTHORIZATION TO THE PORT OF LOS ANGELES
TO CONSTRUCT
THE MAIN VIADUCT (CENTER CROSSING) GRADE-SEPARATED
CROSSING OVER THE PIER A STREET LEAD TRACK;
THE NORTH ACCESS ROAD GRADE-SEPARATED CROSSING
OVER THE PIER A WYE (WEST) TRACK;
THE MAIN VIADUCT (NORTH CROSSING) GRADE-SEPARATED CROSSING
OVER THE PIER A WYE (WEST) TRACK; AND
THE MAIN VIADUCT (SOUTH CROSSING) GRADE-SEPARATED CROSSING
OVER THE PIER A STREET LEAD TRACK
OF THE PORT OF LOS ANGELES OPERATED BY PACIFIC HARBOR LINE,
INC. IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES**

Summary

This decision grants the Port of Los Angeles authorization to construct a new grade-separated roadway bridge structure over four of its tracks providing freight rail service to the Port of Los Angeles, and close the existing at-grade crossing at Neptune Avenue, in the San Pedro Community of the City of Los Angeles, County of Los Angeles. The new crossings will be identified by the following: Main Viaduct - North crossing - CPUC Crossing No. 121SW-1.90-AC and DOT No. 931152S; Main Viaduct - Center crossing - CPUC Crossing No. 121SA-1.90-AC and DOT No. 931151K; Main Viaduct - South Crossing - CPUC Crossing No. 121SA-1.80-AC and DOT No. 931154F; and North Access Road Crossing - CPUC Crossing No. 121SW-1.80-AC and DOT No. 931155M.

Discussion

Proposed Grade-Separated Main Viaduct Bridge Project

The Port of Los Angeles (POLA) is a municipal corporation of the City of Los Angeles. POLA owns the railroad right-of-way network within the Port area. Pacific Harbor Line, Inc. provides freight rail transportation, maintenance, and dispatch services for POLA. POLA requests authorization to construct two new grade-separated roadway bridge structures, identified as Main Viaduct and as North Access Road, over its San Pedro Subdivision-Pier A Street Lead freight track and its San Pedro Subdivision-Pier A Wye (West) freight tracks, thereby creating four new grade-separated crossings. As part of the project, POLA will eliminate Neptune Street crossing that currently crosses at-grade over its tracks.

This proposed project is part of the expansion and modernization of the terminals at Berths 136-147, in the port, a major part of which is the construction of the Main Viaduct Bridge. The proposed Main Viaduct roadway and grade-separated crossings will serve to distribute traffic between local streets to the north via the North Access Road/Harry Bridges Avenue intersection, and to the Port areas to the south the via Fries Avenue/South Access Road intersection. The proposed roadway over the tracks will serve POLA in goods transportation and provide general access to port facilities.

The proposed Main Viaduct grade-separated structure is a north-south four-lane roadway with approximate width of 64 feet crossing above the tracks. The structure includes the intersection of Main Viaduct and North Access Road. North Access Road connects with the surface street network north of the grade-separated intersection. The vertical and horizontal clearances between the railroad tracks and Main Viaduct/North Access Road bridge structure comply with the minimum clearance requirements specified in California Public Utilities

Commission (Commission) General Order 26-D at all four track locations beneath the structure. Train speed is 5 to 10 miles per hour with approximately 10 trains per day using these rail lines.

Neptune Avenue At-Grade Crossing Closure

The existing Neptune Avenue at-grade crossing is located within the Berths 136-147 project area. By constructing the Main Viaduct Bridge and North Access Road grade separated structure, the at-grade Neptune Avenue (and its at-grade crossing) is no longer needed. By using the new grade-separated Main Viaduct roadway, the local fire and law enforcement agencies will improve response times and increase the overall safety at the Port. Therefore, the project will also include the closure of the Neptune Avenue crossing (CPUC Crossing No. No. 121S-2.00 and DOT No. 747737M).

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 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 whether the project is subject to CEQA, and if so, 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, POLA is the appropriate lead agency for this project. The Commission is a responsible agency under CEQA because it will be issuing a permit for a portion of 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

Under CEQA, on November 15, 2011, POLA issued a Notice of Determination (NOD) indicating that the project is statutorily exempt from CEQA under Public Resources Code section 21080.13, as: "Construction of a railroad grade separation project to eliminate an existing grade crossing." Accordingly, no CEQA review was required.

In addition, pursuant to the National Environmental Policy Act (NEPA), the Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) approved the categorical exclusion document on December 22, 2010, under 23 CFR 771.117(d): activity (d)(11).

The Commission reviewed and considered the lead agency's CEQA NOD and NEPA Categorical Exclusion and finds them adequate for our decision-

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.

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.

making purposes. We find that the project is exempt from CEQA under Public Resources Code section 21080.13, which reads:

This division shall not apply to any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation.

Filing Requirements and Staff Recommendation

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of the 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 176-3289, dated February 16, 2012, 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, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

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

Emory Hagan is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on February 6, 2012. There are no unresolved matters or protests. A public hearing is not necessary.
2. POLA requests authority to construct a new public road, identified as Main Viaduct Bridge, over its San Pedro Subdivision-Pier A Street Lead freight track and its San Pedro Subdivision-Pier A Wye (West) freight tracks, thereby creating four new grade-separated crossings.
3. The project will include closure of the existing at-grade crossing at Neptune Avenue, CPUC Crossing No. 121S-2.00 and DOT No. 747737M.
4. POLA is the lead agency for this project under CEQA.
5. POLA issued a NOD indicating that the project is Statutorily Exempt from CEQA under Public Resources Code section 21080.13.
6. Caltrans and FHWA approved the NEPA categorical exclusion document on December 22, 2010.
7. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's NOD and NEPA categorical exclusion.

Conclusions of Law

1. The NOD and NEPA categorical exclusion are adequate for our decision-making purposes.
2. The Commission independently finds that this project is exempt from CEQA under Public Resources Code section 21080.13.
3. The application is uncontested and a public hearing is not necessary.
4. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The Port of Los Angeles, a municipal corporation of the City of Los Angeles, is authorized to construct a new public road, identified as Main Viaduct Bridge, across its San Pedro Subdivision-Pier A Street Lead freight track and its San Pedro Subdivision-Pier A Wye (West) freight tracks, thereby creating four new grade-separated rail crossings, in the City of Los Angeles, County of Los Angeles.
2. The Main Viaduct - Center grade-separated crossing shall be identified as CPUC Crossing No. 121SA-1.90-AC and Federal Department of Transportation No. 931151K.
3. The Main Viaduct - North grade-separated crossing shall be identified as CPUC Crossing No. 121SW-1.90-AC and Federal Department of Transportation No. 931152S.
4. The Main Viaduct - South grade-separated crossing shall be identified as CPUC Crossing No. 121SA-1.80-AC and Federal Department of Transportation No. 931154F.
5. The Port of Los Angeles, a municipal corporation of the City of Los Angeles, is authorized to construct a new public road, identified as North Access Road, across its San Pedro Subdivision- Pier A Wye (West) freight tracks, thereby creating a new grade-separated rail crossing, in the City of Los Angeles, County of Los Angeles.
6. The North Access Road grade-separated crossing shall be identified as CPUC Crossing No. 121SW-1.80-AC and Federal Department of Transportation No. 931155M.

7. The authorization shall include the closure of the existing at-grade crossing at Neptune Avenue (CPUC Crossing No. 121S-2.00 and Federal Department of Transportation No. 747737M).

8. The Port of Los Angeles shall notify the Los Angeles office of Commission's Consumer Protection and Safety Division – Rail Crossing Engineering Section at least five (5) business days prior to opening of the crossings. Notification should be made to rces@cpuc.ca.gov.

9. Within 30 days after completion of the work under this order, the Port of Los Angeles shall notify the Commission's Consumer Protection and Safety Division – 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.

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

11. The Port of Los Angeles shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

12. 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.

13. 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.

14. The application is granted as set forth above.

15. Application 12-02-002, Application 12-02-003, Application 12-02-004, and Application 12-02-005 are closed.

This order becomes effective 30 days from today.

Dated June 7, 2012, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J. K. SANDOVAL
MARK J. FERRON
Commissioners