

Decision 03-05-068 May 22, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Port of Stockton to install automatic warning devices at Fyffe Avenue and the intersection of Fyffe Avenue at Hooper Drive with passive signing at Embarcadero Drive and McCloy Avenue, at-grade crossings within the County of San Joaquin.

Application 02-11-046
(Filed November 22, 2002)

O P I N I O N

Summary

The Port of Stockton (Port) requests authority to install automatic crossing warning devices at Fyffe Avenue, Crossing No. 123-1.67 and Fyffe Avenue, Crossing No. 123-1.90. Also, Port requests authority to install passive crossing warning signs at Embarcadero Drive, Crossing No. 123-2.32 and McCloy Avenue, Crossing No. 123-2.53 across the railroad tracks owned by the Port in San Joaquin County.

Discussion

The Stockton Port District is a municipal corporation in the form of a Port District formed under Section 6290 et seq. of the Harbors and Navigation Code of the State of California. The Port District exercises both police power regulatory authority acting on behalf of the State, as well as sovereignty over those uplands, tidelands and submerged lands granted to it by the State within its jurisdiction, or acquired from the Federal Government, and in some instances by statute or agreement with the Federal Government beyond its jurisdictional boundaries.

Under Section 6295 of the Harbor and Navigation Code, the Port has acquired from the Federal Government certain Federal lands formerly known as Rough and Ready Island and now referred to as the West Port Complex of the Port of Stockton. The railroad tracks and highway-rail crossings within the Rough and Ready Island were in existence during the ownership of the Federal Government as a military base. The existing highway-rail crossings were not under the Commission jurisdiction and are not in compliance with California Public Utilities Code. The West Port Complex is being rehabilitated and various existing buildings will be leased to public for industrial and commercial use. The railroad tracks, within the West Port Complex, are owned by the Port. Port is upgrading the tracks to the current Federal Railroad Administration standards and unnecessary highway-rail crossings will be closed. The Port has contracted with the Central California Traction Company (CCTC), a public carrier, to provide rail service. CCTC will provide once daily rail service during daylight hours at a maximum train speed of 10 miles per hour. Due to urgent need for rail service, Port requested temporary rail operation across the existing highway-rail crossings. By Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section's (RCES) letter dated April 8, 2002, the CCTC was authorized to operate rail service across the existing highway-rail crossings for one year under the condition that the Port will provide flagging of roadway traffic at each highway-rail crossing during rail operation.

The Port proposes to upgrade the highway-rail crossings and install automatic crossing warning devices at Fyffe Avenue (the main entrance to the Port's West Complex), and at Fyffe Avenue (intersection of Fyffe Avenue and Hooper Drive). Also, Port proposes to install passive crossing warning devices at Embarcadero Drive and McCloy Avenue crossings. Port plans to close the

existing Hooper Drive crossing, Daggett Road crossing, and all other existing highway-rail crossings within the Port's West Complex.

Port of Stockton is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Section 21000 et seq. On September 27, 2002, a Notice of Determination was filed with the San Joaquin County Clerk which found that the project is categorically exempt from CEQA under PR Code Section 15311 (Class II – Accessory Structures).

The Commission is a responsible agency for this project under CEQA (CEQA Guideline Section 15096) and has reviewed and considered the lead agency's categorical exemption determination consistent with its obligations under CEQA. Specifically, we note that PR Code Section 15311 provides an exemption from CEQA environmental review for Accessory Structures. The proposed installation of crossing warning signs and automatic crossing warning devices will not have an adverse effect on the environment. We believe that the lead agency properly determined that Section 15311 applies to warrant CEQA exemption in this case. We also note that the proposed installation of warning signs and automatic crossing warning devices falls within CEQA Guideline Section 15301 (f), which provides a categorical exemption for the addition of safety or health protection devices in conjunction with existing structures and facilities. Therefore, we adopt the lead agency's finding of exemption for purpose of our approval.

Application 02-11-046 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to construction of a public highway across a railroad. A sketch of the crossings area is included as Appendix A.

The RCES has inspected the site of the proposed project. After reviewing the need for, and safety of, the proposed construction, RCES recommends that the sought authority be granted.

In Resolution ALJ 176-3102 dated December 5, 2002, and published on the Commission Daily Calendar on December 6, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. The RCES recommends that this application be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3102.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being 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 November 27, 2002; no protests have been filed. A public hearing is not necessary.
2. Port requests authority under Public Utilities Code Sections 1201-1205 to construct two crossings of Fyffe Avenue, one crossing of Embarcadero Drive, and one crossing of McCloy Avenue across the Port's railroad tracks.
3. Port will close Hooper Drive crossing, Daggett Road crossing, and all other existing highway-rail crossings within the Port's West Complex.

4. The Port has contracted with CCTC, a public carrier, to provide rail service.
5. Construction of the proposed highway-rail crossings is required to improve traffic circulation and safety of motorists.
6. Public convenience, necessity, and safety require the construction of the proposed highway-rail crossings.
7. Port is the lead agency for this project under CEQA, as amended.
8. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's categorical exemption determination.
9. The Commission finds that the proposed project will not have any significant effect on the environment.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The Port found that the proposed project is exempt from CEQA under PR Code Section 15311, and as stated herein, we adopt that finding of exemption for purpose of our approval.
3. The proposed project also falls within the CEQA categorical exemption provided by CEQA Guideline Section 15301 (f).
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 Stockton (Port) is authorized to construct Fyffe Avenue, Crossing No. 123-1.67; Fyffe Avenue, Crossing No. 123-1.99; Embarcadero Drive, Crossing No. 123-2.32; and McCloy Avenue, Crossing No. 123-2.53, all at-grade

across the Port's railroad tracks in the Port's West Complex at the location and substantially as shown by plans attached to the application.

2. The crossing warning devices at the Fyffe Avenue, Crossing No. 123-1.67, shall be three Standard No. 9 Automatic Gate-type Signals as specified in General Order (GO) 75-C at locations shown on the plan attached to the application.

3. The crossing warning devices at the Fyffe Avenue, Crossing No. 123-1.99, shall be three Standard No. 8 Flashing Light Signals as specified in GO 75-C at locations shown on the plan attached to the application.

4. The crossing warning devices at the Embarcadero Drive, Crossing No. 123-2.32, and McCloy Avenue, Crossing No. 123-2.53, shall be Standard No. 1-R Crossbuck Sign as specified in GO 75-C and Standard No. R1-1 Stop Sign as specified in Manual on Uniform Traffic Control Devices at locations shown on the plan attached to the application.

5. Port shall install appropriate advance crossing warning signs and pavement markings at all crossings as specified in Manual on Uniform Traffic Control Devices.

6. The temporary traffic controls, during construction, shall comply with Section 8A.05, Temporary Traffic Control Zones, of the Manual on Uniform Traffic Control Devices.

7. Port shall close Hooper Drive crossing by removing roadway across the tracks, Daggett Road crossing by removing tracks across the roadway, and all other unauthorized highway-rail crossings within the Port's West Complex.

8. Construction and maintenance of the highway-rail crossing surface shall be in accordance with GO 72-B.

9. Clearances shall be in accordance with GO 26-D.

10. Walkways shall conform to GO 118.
11. Construction expense of the crossings and installation cost of the crossing warning devices shall be borne by the Port.
12. Maintenance cost of the crossing surface and crossing warning devices shall be borne by the Port.
13. Construction plans of the proposed highway-rail crossings, approved by the Central California Traction Company (CCTC), a rail service provider, together with a copy of the agreement entered into between the Port and CCTC, shall be filed by the Port with the Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section (RCES) prior to commencing construction.
14. Within 30 days after completion of the work under this order, Port shall notify RCES in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work is completed.
15. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.
16. The Executive Director shall serve a copy of this order on CCTC.

17. The application is granted as set forth above.

18. Application 02-11-046 is closed.

This order becomes effective 30 days from today.

Dated May 22, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

APPENDIX A

