Decision 04-03-028 March 16, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Los Angeles County Metropolitan Transportation Authority for an order authorizing the construction of a two-track grade crossing for the Eastside Corridor Light Rail Transit Line across Mission Road, across Anderson Street, across Utah Street, across Clarence Street and across a pedestrian crosswalk at Gless Street in the City of Los Angeles.	Application 03-09-019 (Filed September 10, 2003)

O P I N I O N

Summary

This decision grants Los Angeles County Metropolitan Transportation Authority's (MTA) request for authority to construct, as part of the Eastside Corridor Light Rail Transit Line (ELRL) project, four proposed at-grade highway-rail crossings across Mission Road, Anderson Street, Utah Street, and Clarence Street and a proposed at-grade pedestrian-rail crossing across a pedestrian crosswalk at Gless Street (Gless Crosswalk) in City of Los Angeles (City), Los Angeles County.

Discussion

MTA is the primary provider of transit-related services in Los Angeles County. The State Legislature created MTA pursuant to Public Utilities Code Section 130050.2. MTA funds and operates an extensive transit network, including the Pasadena Gold Line, in Los Angeles County.

MTA is authorized to utilize and cross public roadways and public right-of-ways, to construct and maintain a light rail transit line together with the appurtenances, and to relocate other facilities pursuant to Public Utilities Code Sections 30631, 30633, and 130231.

MTA proposes to construct four at-grade highway-rail crossings across Mission Road, Anderson Street, Utah Street, and Clarence Street and an at-grade pedestrian-rail crossing across Gless Street. MTA will prohibit automotive vehicle traffic across the two light rail tracks at Gless Street. Only light rail trains will operate on the tracks in First Street, which MTA, in cooperation with City, will pave. However, emergency vehicles, such as fire trucks, police cars, and ambulances, can access the tracks.

MTA will bear construction and design costs of the project in accordance with the Master Cooperative Agreement between MTA and City. MTA will operate and maintain the tracks, traffic signal detector loops in the track area, facilities, appurtenances, and right-of-way. MTA and City will share costs associated with maintenance of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing to conform to Commission General Order (GO) 72-B. City will bear the costs associated with maintenance of the train signals and vehicle traffic signals at each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing.

MTA's ELRL will be an eastward extension of the Pasadena Gold Line and will be six miles in length. The ELRL will begin at the end of the Pasadena Gold Line track at Union Station. At the sites of the proposed at-grade highway-rail crossings of Mission Road, Anderson Street, Utah Street, and Clarence Street and the proposed at-grade pedestrian-rail crossing of Gless Street, the ELRL will run

easterly along the center of First Street from the proposed Myers Street grade-separated highway-rail crossing (proposed CPUC Crossing No. 84E-1.14-B) east of the Los Angeles River to the west portal of a tunnel beneath Boyle Heights. The ELRL will have double track, overhead catenary power distribution, and will operate electrically powered articulated cars 90 feet in length. Furthermore, trains will operate at a speed no greater than the maximum automotive speed along First Street with a maximum speed of 35 miles per hour. MTA will utilize an over speed protection system in the event a train operator exceeds the 35 miles per hour speed and the operator does not respond to the over speed indication. In such instances, a train will stop automatically.

At each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing, MTA will install traffic signals for motorists and pedestrians and dedicated train signals (lunar white bar indications) for the train operators. To further enhance safety on the ELRL, each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing will have train-actuated light emitting diode warning signs to give warning of approaching trains to motor vehicle operators and pedestrians. For intersections within its jurisdiction, City of Los Angeles will coordinate traffic signals to the extent possible to provide priority to train traffic.

GO 143-B provides for the operation of light rail transit lines. MTA proposes to adopt ELRL operations that will meet the requirements of GO 143-B, Section 9.04(b)(4) to construct the four proposed at-grade highway-rail crossings across Mission Road, Anderson Street, Utah Street, and Clarence Street and the proposed at-grade pedestrian-rail crossing across Gless Street.

MTA is the lead agency for this project under California Environmental Quality Act of 1970 (CEQA), as amended in 1982 and as stated in Public

Resources (PR) Code Section 21000 et seq. MTA prepared a Final Supplemental Environmental Impact Statement/Final Subsequent Environmental Impact Report (Final SEIS/SEIR), assigned State Clearinghouse (SCH) Number 1999081061, for the project on January 4, 2002. On February 28, 2002, the MTA Board of Directors approved the project and adopted the Final SEIS/SEIR. On March 1, 2002, in compliance with PR Code Sections 21108 and 21152, MTA filed a Notice of Determination (NOD) with the State Clearinghouse and the Los Angeles County Clerk. The NOD is attached to Appendix C of the order. The NOD concluded that the project will have a significant effect on the environment and mitigation measures were made a condition for project approval. Findings were made pursuant to the provisions of CEQA, and MTA adopted a "Statement of Overriding Considerations" (SOC) for this project.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

The Commission has reviewed the lead agency's environmental documents, and we find them adequate for our decision-making purposes. These documents include the Final SEIS/SEIR for the Los Angeles Eastside Corridor (SCH No. 1999081061), prepared jointly by the United States Department of Transportation – Federal Transit Administration and MTA. In considering this document, we note that the Final SEIS/SEIR developed and

evaluated a range of alternatives as well as a "No-Build Alternative." The Final SEIS / SEIR included an analysis of potential environmental impacts related to the project and alternatives related to, among other items, transportation, land use and development, land acquisition / displacement and relocation, air quality, noise and vibration, and safety. Safety, transportation and noise are within the scope of the Commission's permitting process. The Final SEIS / SEIR (Volume I) contains statements pertaining to the affected environment, methodology for impact evaluation, impacts, and mitigation. MTA identified environmental impacts related to safety, transportation, and noise.

Potential safety impacts relate to the number of light rail trains operating during weekday peak hours and the risk of collisions with vehicles on the public roadway portion of the system. To mitigate the potential impacts to less-than-significant levels, MTA will implement mitigation measures including working with the County traffic control department; minimizing turns by vehicles across tracks; installing traffic controls, such as automatic signs and intersection surveillance cameras; and providing safety lighting where there is conflict between the movement of pedestrians, vehicles, and trains.

Potential transportation impacts relate to areas of vehicular back-ups during peak hours at certain intersections. To mitigate most impacts to less-than-significant levels, adopted mitigation measures include modified turn lanes and parking restrictions at specified locations.

Potential noise impacts are anticipated at various one-family and two-family residential buildings. Adopted mitigation measures to reduce most impacts to less-than-significant levels include rail grinding and replacement, rail vehicle wheel truing and replacement, vehicle maintenance, and sound insulation at impacted buildings.

The "Findings Of Fact And Statement Of Overriding Considerations," (FFSOC) contains statements pertaining to impacts, mitigation measures, and findings for each impact. The FFSOC categorized these impacts as "Significant Effects Determined to be Mitigated to a Less-than-significant Level," "Significant Effects That Are Not Mitigated to a Less-than-significant Level," and "Effects Determined Not to be Significant or Less-than-significant." Included in the FFSOC are the SOC and "Mitigation Monitoring Plan" (MMP). The MTA Board of Directors adopted the SOC to approve the project despite significant and unavoidable adverse environmental impacts identified in the Final SEIS/SEIR and FFSOC related to transportation and noise. Specifically, it was determined that transportation mitigation measures adopted for the project would not fully reduce impacts to less-than-significant levels for residual traffic back-ups at a limited number of intersections. In addition, while adopted noise mitigations would fully mitigate noise impacts in interior areas of various residential buildings, the mitigations would not reduce impacts for exterior areas to less-than-significant levels.

The MTA Board of Directors found that the benefits of the proposed project outweigh the unavoidable significant adverse environmental impacts. The Board of Directors determined that each of the separate benefits identified in the SOC, in itself and independent of other project benefits, is a basis for overriding all unavoidable impacts identified in the Final SEIS/SEIR and noted in the Board of Directors' findings. Specific overriding benefits resulting from the project include restoring the balance of regional capital transportation expenditures, improving access for area residents to local destinations and regional rail and bus systems, providing convenient and reliable transportation, and decreasing annual regional vehicle miles traveled.

In reviewing the Final SEIS / SEIR and MMP, we find that with respect to issues within the scope of our permitting process, MTA, where possible, adopted feasible mitigation measures to lessen the significant environmental impacts to less-than-significant levels. We will adopt MTA's findings and mitigations for purposes of our approval.

With respect the SOC, we find that the Board of Directors enumerated several significant benefits associated with the proposed project which appeared, on balance, to reasonably justify approval of the project despite certain significant and unavoidable impacts. Therefore, we accept and adopt the findings of the SOC for purposes of our approval.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) has inspected the sites of the four proposed at-grade highway-rail crossings across Mission Road, Anderson Street, Utah Street, and Clarence Street and an at-grade pedestrian-rail crossing across Gless Street. After reviewing the need for and the safety of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing, RCES recommends that the Commission grant MTA's requests.

RCES concurs with MTA's assertion in the Application that a separation of grades of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing would be impracticable. The five proposed crossings are in close proximity of each other within an approximate 1500-foot corridor. The close proximity of the existing First Street Bridge on the west end of this corridor makes a separation of grades impracticable at Mission Road. The close proximity of Anderson Street and the remaining streets to the east makes a separation of grades impracticable within this short corridor. Therefore, RCES

recommends that the Commission not require MTA to grade separate the crossings under Public Utilities Code Section 1202(c).

The Application is in compliance with the Commission's filing requirements, including Rule 40 of Rules of Practice and Procedure, which relates to the construction of railroad tracks across public highways. A site map and detailed drawings of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing are shown in Appendix B attached to the order.

In Resolution ALJ 176-3119, dated September 18, 2003, and published in the Commission Daily Calendar on September 19, 2003, the Commission preliminarily categorized Application (A.) 03-09-019 as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains correct. Given these developments, it is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3119.

This Application is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), we waive the otherwise applicable 30-day period for public review and comment.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Commission published Notice of A.03-09-019 in the Commission Daily Calendar on September 12, 2003. There are no unresolved matters or protests; a public hearing is not necessary.

2. MTA requests authority, under Public Utilities Code Sections 1201-1205, to construct, as part of MTA's ELRL project, the proposed at-grade highway-rail crossings across Mission Road, Anderson Street, Utah Street, and Clarence Street and the proposed at-grade pedestrian-rail crossings across Gless Street, in Los Angeles, Los Angeles County. MTA will prohibit automotive vehicle traffic across the two light rail tracks at Gless Street. Only light rail trains will operate on the tracks in First Street, which MTA, in cooperation with City, will pave. However, emergency vehicles, such as fire trucks, police cars, and ambulances, can access the tracks.

3. RCES concurs with MTA's assertion that a separation of grades of the five crossings is impracticable at this location.

4. Public convenience and necessity require construction of the proposed at-grade pedestrian-rail crossing and the four proposed at-grade highway-rail crossings of MTA's ELRL tracks.

5. Public safety requires, at each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing, the installation of traffic signals for motorists and pedestrians and dedicated train signals (lunar white bar indications) for the train operators. To further enhance safety on the ELRL, each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing will have train-actuated light emitting diode warning signs to give warning of approaching trains to motor vehicle operators and pedestrians. For intersections within its jurisdiction, City of Los Angeles will coordinate traffic signals to the extent possible to provide priority to train traffic.

6. MTA is the lead agency for this project under CEQA, as amended.

7. In approving the project on February 28, 2002, the MTA Board of Directors adopted the Final SEIS/SEIR for the Los Angeles Eastside Corridor (SCH No. 1999081061) and found that "The project will have a significant effect on the environment." Mitigation measures were made a condition of the approval of the project. Findings were made pursuant to the provisions of CEQA. An SOC was adopted for this project.

8. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Final SEIS/SEIR, NOD, and the SOC. We find these documents to be adequate for our decision-making purposes.

9. Safety, transportation and noise are within the scope of the Commission's permitting process.

10. For the approved project, the lead agency identified environmental impacts related to safety, transportation and noise.

Conclusions of Law

1. With respect to significant impacts from safety, transportation and noise, we find that the lead agency adopted feasible mitigation measures where possible to substantially lessen the environmental impacts to a less-than-significant level. With respect to the significant and unavoidable environmental impacts, we find that MTA enumerated several significant benefits to justify project approval. Therefore, we also adopt the SOC for purposes of our approval.

2. With respect to the practicability of grade separating the proposed crossings, we find that MTA convincingly demonstrated that a separation of grades at the location of the five proposed crossings is impracticable.

3. The Application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The Los Angeles County Metropolitan Transportation Authority (MTA) is authorized to construct the four proposed two-track at-grade highway rail crossings across Mission Road, Anderson Street, Utah Street, and Clarence Street and the proposed two-track at-grade pedestrian-rail crossing across a pedestrian crosswalk at Gless Street, of MTA's Eastside Corridor Light Rail Transit Line (ELRL), in the City of Los Angeles (City), Los Angeles County, at the locations and substantially as described in and as shown by plans attached to the Application, as described in Appendix A attached to this order and as shown by plans in Appendix B attached to this order.

2. MTA, in cooperation with City, shall ensure, at each of the four at-grade highway-rail crossing and the proposed at-grade pedestrian-rail crossing, the installation of traffic signals for motorists and pedestrians and dedicated train signals (lunar white bar indications) for train operators. To further enhance safety on the ELRL, MTA, at each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing, shall install train-actuated light emitting diode warning signs to give motorists and pedestrians warning of approaching trains. For intersections within its jurisdiction, City shall coordinate traffic signals to the extent possible to provide priority to train traffic.

3. Clearances and walkways shall conform to all applicable Commission General Orders.

4. MTA shall bear construction and design costs of the project in accordance with the Master Cooperative Agreement between MTA and City (parties). MTA

shall operate and maintain the tracks, traffic signal detector loops in the track area, facilities, appurtenances, and right-of-way. The parties shall share costs associated with maintenance of each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing to conform to Commission General Order 72-B. City shall bear the costs associated with maintenance of the train signals and vehicle traffic signals at each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing. Should the parties fail to agree, the Commission shall apportion the costs of construction and maintenance by further order.

5. Within 30 days after completion of the work under this order, MTA shall notify the Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work.

6. This authorization shall expire if not exercised within two years unless the Commission extends the time or if the parties do not comply with the above conditions. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

7. The Commission grants the Application as set forth above.

8. Application 03-09-019 is closed.

This order becomes effective 30 days from today.

Dated March 16, 2004, at San Francisco, California.

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

APPENDIX A

As part of the project to construct the Eastside Corridor Light Rail Transit Line (ELRL), the Los Angeles County Metropolitan Transportation Authority (MTA) proposes to construct four two-track at-grade highway-rail crossings across Mission Road, Anderson Street, Utah Street, and Clarence Street and a two-track at-grade pedestrian-rail crossing across Gless Street in the City of Los Angeles (City), Los Angeles County. Application 03-09-019 indicates the full details of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing and more particularly as set forth below:

At-grade Crossing	CPUC Crossing No.
Mission Road	84E-1.19
Anderson Street	84E-1.26
Utah Street	84E-1.34
Clarence Street	84E-1.41
Gless Street	84E-1.48-D

Note: MTA, in cooperation with City, shall ensure, at each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing, the installation of traffic signals for motorists and pedestrians and dedicated train signals (lunar white bar indications) for train operators. To further enhance safety on the ELRL, MTA, at each of the four proposed at-grade highway-rail crossings and the proposed at-grade pedestrian-rail crossing, shall install train-actuated light emitting diode warning signs to give motorists and pedestrians warning of approaching trains. For intersections within its jurisdiction, City shall coordinate traffic signals to the extent possible to provide priority to train traffic.

A P P E N D I X B

PLANS

A P P E N D I X C

ENVIRONMENTAL DOCUMENTS