

Decision 21-04-027 April 22, 2021

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the City of Watsonville for authorization to construct a new at-grade crossing for pedestrians and bicycles on the main track line of Santa Cruz County Regional Transportation Commission (SCCRTC) rail, operated by Progressive Rail at railroad mile post 2.66, new crossing DOT#978053C, Coastal Subdivision, to link the City of Watsonville to the proposed Monterey Bay Sanctuary Scenic Trail Network.

Application 20-08-013

**DECISION AUTHORIZING THE CITY OF WATSONVILLE TO CONSTRUCT A NEW AT-GRADE CROSSING FOR PEDESTRIANS AND BICYCLES ON THE MAIN TRACK LINE OF SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION RAIL**

**Summary**

This decision authorizes the City of Watsonville (Watsonville, or Applicant) to construct an at-grade rail crossing for pedestrians and bicycles on the main track line of Santa Cruz County Regional Transportation Commission (SCCRTC) at milepost 2.66 in Watsonville, California. The crossing will link Watsonville to the proposed Monterey Bay Sanctuary Scenic Trail Network. The authority granted in this decision is valid for a period of three years from the date this decision is issued. The proceeding is closed.

## 1. Background

On August 20, 2020, Watsonville filed its application (Application) to construct a new at-grade crossing for pedestrians and bicycles on the main track line of SCCRTC rail, operated by Progressive Rail, at railroad milepost (MP) 2.66, new crossing DOT # 978053C, Coastal Subdivision (Proposed Crossing).

The Proposed Crossing will provide pedestrian and bicycle access from Watsonville to the 32-mile long Santa Cruz Branch Line rail trail and is a subproject of the Modified Segment 18 Project, which is part of the Monterey Bay Sanctuary Scenic Trail Network Master Plan (Trail Network Master Plan).

The Proposed Crossing will close a gap at Segment 18, as part of the Modified Segment 18 Project, which is a component of the Trail Network Master Plan. The Trail Network Master Plan, when completed, will create an approximately 50-mile bicycle and pedestrian network along the Santa Cruz County coast. No automobile traffic will be allowed on the trail.

The Proposed Crossing will:

- Cross over an existing main line track near Lee Road in Watsonville;
- Serve bicyclists and pedestrians only;
- Provide access from the terminuses for emergency vehicles;
- Be 12 feet wide;
- Incorporate standard safety equipment, including signage, striping, protective bollards, concrete track panels, and 54-inch high fencing; and
- Comply with ADA requirements, including installation of ADA-detectable pavement markings.

The California Public Utilities Commission's (Commission) Rail Safety Division (RSD) filed a response on September 21, 2020.

A prehearing conference (PHC) was held on October 6, 2020, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. At the PHC, the Applicant agreed to file and serve additional information to satisfy its obligations under the Commission's Rules of Practice and Procedure (Rules) 3.7(c)(2) and 3.7(f), and thereafter, filed the requisite additional information on November 3, 2020.

The assigned Commissioner issued a Scoping Memo Ruling on January 8, 2021, (Scoping Memo). The Applicant also filed comments in response to the directives in the Scoping Memo on January 19, 2021, addressing the impacts of the Proposed Crossing on environmental and social justice (ESJ) communities.

RSD filed comments on January 21, 2021, addressing how the Applicant consulted with the RSD staff and whether General Order (GO) 164-E §10 should apply to the Proposed Crossing.

## **2. Jurisdiction**

Under § 1202 of the Public Utilities Code (Pub. Util. Code), the Commission has exclusive jurisdiction “to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use, and protection of each crossing of one railroad by another railroad or street railroad, of a street railroad by a railroad, of each crossing of a public or publicly used road or highway by a railroad or street railroad, and of a street by a railroad or of a railroad by a street.”

## **3. Issues Before the Commission**

The issues before the Commission in this proceeding are:

- A. Whether the Application complies with the Commission’s Rules, including Rule 3.7, such that the Commission

- should authorize the Proposed Crossing (a new at-grade crossing for pedestrians and bicycles on the main track line of SCCRTC rail, operated by Progressive Rail at railroad MP 2.66, new crossing DOT # 978053C, Coastal Subdivision);
- B. Whether the Applicant has complied with the California Environmental Quality Act<sup>1</sup> (CEQA);
  - C. Whether the Application poses any significant safety issues;
  - D. Whether the Commission should grant the Applicant a period of three years from the Application approval date to complete the Proposed Crossing; and
  - E. The impacts of the Proposed Crossing on environmental and social justice communities, including the extent to which the Proposed Crossing impacts achievement of any of the nine goals of the Commission's ESJ Action Plan.

#### **4. Discussion**

##### **4.1. Compliance with Rules, General Orders (GOs), and Safety Requirements**

Applications for the construction of a public road, highway, or street across a railroad must comply with Rule 3.7 as well as the Commission's GOs 26-D, 72-B, and 75-D.

In its response to the Application, RSD noted that RSD staff conducted a site visit of the Proposed Crossing location on February 12, 2020. Based thereon and upon review of the Application, RSD also determined that there was no safety or other concerns during this inspection and that the Application complies with the Commission's Rules and GOs, with the exception that the Application failed to include the information required in Rules 3.7(c)(2) and 3.7(f). These

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<sup>1</sup> California Environmental Act of 1970 (as amended, Public Resources Code Secs. 21000, *et seq.*).

Rules require an Application for an at-grade rail crossing to state why separation of grades for the new crossing is not practicable and to include the profile and grade lines for the proposed crossing. The Applicant filed this information on November 3, 2020, satisfying the requirements of Rule 3.7(c)(2) and 3.7(f).

RSD supplemented its position in its comments in response to the Scoping Memo by noting that GO 164-E does not apply to the Proposed Crossing.

While ordinarily grade separations are preferred as safer crossing design, here, we recognize that a grade separation is not practicable. The Proposed Crossing is constrained by existing topography and available widths, and construction of a grade separation at this location would result in additional environmental impacts and require right-of-way acquisition.

The Proposed Crossing complies with GO 26-D § 3, because it has a side clearance in excess of the eight feet, six inches minimum requirement. It complies with GO 72-B §10, because precast concrete track panels will be installed such that crossing surfaces "conform substantially to the plane of the rails for the entire area between rails and [...] to lines two (2) feet outside the rails."

As demonstrated in Exhibit 1 of the Application and in the Applicant's supplemental filing, the Proposed Crossing complies with GO 72-B § 3, which requires it be at least as wide as "the traveled approach portions" of the bicycle and pedestrian trail. The minimum width of 24 feet required by GO 72-B § 4 is not necessary in this case, because the trail is narrower than 24 feet.

The Application also complies with GO 75-D: all warning devices comply with the Manual on Uniform Traffic Control Devices pursuant to GO 75-D § 4,

and attachments to the Application show plans to identify the crossings pursuant to the requirements of GO 75-D § 5.

After review of the Application and RSD's response which was based on RSD's inspection of the Proposed Crossing location, the Commission finds that the Application does not pose any significant safety issues and complies with the Commission's Rules, including Rule 3.7, such that the Commission should authorize the Proposed Crossing. RSD also recommends language for the Commission's Ordering Paragraphs of this decision, which we find reasonable.

#### **4.2. Compliance with the California Environmental Quality Act (CEQA)**

CEQA applies to the discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform decision makers and the public about potential significant environmental effects.

Under CEQA, the lead agency is either the public agency that carries out the project or the one with the greatest responsibility for supervising or approving the project as a whole.

For CEQA review, the Modified Segment 18 Project, a part of the Trail Network Master Plan, is the project. The Proposed Crossing is a subpart of that project. The City of Watsonville, the Applicant here, is the project proponent. Since the project includes this Proposed Crossing, the Commission is a responsible agency under CEQA.

As part of its Application, the Applicant filed the SCCRTC 2020 Final Environmental Impact Report (FEIR) for the Monterey Bay Sanctuary Scenic Trail Network Master Plan -- Addendum Number 3 to the EIR Segment 18 (State Clearinghouse Number: 2012082075). The Proposed Crossing at MP 2.66 is located within the study area of this FEIR.

As a responsible agency the Commission must consider the environmental effects identified in the portion of the project that is before the Commission for approval. The Commission is required to mitigate or avoid the direct and indirect environmental effects of those parts of the project which it is called on to carry out or approve. The Commission must approve any mitigation measures within the Commission's jurisdiction that avoid or mitigate the parts of the project the Commission approves, unless the changes or alterations are infeasible for specific economic, legal, social, technological or other considerations. The Commission must balance any unavoidable impacts against specific economic, legal social, technical and other benefits. Upon review, the Commission must file a Notice of Determination with the State Clearinghouse certifying that the Commission has considered the environmental document.

The FEIR considered numerous categories of potential impacts, including: aesthetics; agriculture and forestry resources; air quality; biological resources; cultural resources; geology and soils; greenhouse gas emissions; hazardous waste and hazardous materials; hydrology and water quality; land use and planning; mineral resources; noise; population and housing; public services; recreation; transportation/traffic; utilities and service systems; and cumulative impact. The FEIR also included a set of mitigation measures and a mitigation monitoring program.

When an impact was found to exceed the accepted level of significance a mitigation measure was designed and adopted to eliminate the impact or keep the impact below the level of significance.

The significant impacts and associated mitigation measures directly or indirectly associated with the Proposed Crossing are related to construction

noise and vibrations, as a hotel is located 100 feet from the Proposed Crossing.

Mitigation measures implemented will be:

- Construction hours (*e.g.*, no construction during typical sleeping hours);
- Acoustical shelters; and
- Construction equipment noise reduction (*e.g.*, construction equipment baffled to reduce vibration levels).

With the implementation of the above mitigation measures, all impacts of the Proposed Crossing will be less than significant under CEQA.

The Commission has reviewed and considered the FEIR as it relates to the Proposed Crossing. We find that the FEIR as it relates to the Proposed Crossing to be adequate for our decision-making purposes. The Commission's Energy Division will file a Notice of Determination with the State Clearinghouse stating that the Commission has considered the environmental documents related to the Proposed Crossing.

#### **4.3. Alignment with the Commission's Environmental and Social Justice (ESJ) Action Plan**

In February 2019, the Commission adopted its ESJ Action Plan as a comprehensive strategy and framework for addressing ESJ issues in each proceeding.<sup>2</sup>

The Proposed Crossing is in census tract 6087122300 and immediately borders census tract 6087110400. The Applicant asserts that there are ESJ communities present in both of the census tracts. These include communities of

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<sup>2</sup> As of February 10, 2021, the Environmental and Social Justice Action plan is available on the Commission's website at [http://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/UtilitiesIndustries/Energy/EnergyPrograms/Infrastructure/DC/Env%20and%20Social%20Justice%20ActionPlan\\_%202019-02-21.docx.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/UtilitiesIndustries/Energy/EnergyPrograms/Infrastructure/DC/Env%20and%20Social%20Justice%20ActionPlan_%202019-02-21.docx.pdf).



color, low-income households, communities underrepresented in the policy setting or decision-making process, communities experiencing a disproportionate impact from environmental hazards, and disadvantaged communities as defined by Senate Bill 535.

In closing a gap in the Monterey Bay Sanctuary Scenic Trail Network, the Proposed Crossing will serve local ESJ communities by increasing access to jobs, schools, and open space. The Proposed Crossing will promote an active and healthy lifestyle and is expected to reduce local automobile trips, which will reduce air pollution in the area and enhance health of these ESJ communities. The Proposed Crossing will also contribute to climate resiliency in ESJ communities by improving access to cooler open spaces (*e.g.*, wetlands and beaches) during extreme heat events.

As an off-road facility, the Proposed Crossing will also reduce exposure of local pedestrians and bicyclists to automobiles and will thus reduce crashes and related injuries associated with automobile collisions with pedestrians and bicyclists. In particular, the Proposed Crossing will provide off-road access to agricultural fields surrounding Watsonville, which are currently only available via roadway networks that have little to no curb and sidewalk facilities. This improved, safer access to agricultural fields is important for Watsonville ESJ communities because a large number of residents are outdoor workers, and many of them likely work in the surrounding agricultural fields. The Proposed Crossing will also provide safe, off-road access to other jobs in industries such as distribution, manufacturing, and retail.

The Applicant notes that ESJ communities were engaged throughout the planning process and provided opportunities to influence the design and construction of the Proposed Crossing. The Applicant also conducted outreach

to local community groups, held workshops with Spanish translation and meeting materials, and hosted events locally to allow for easy access for ESJ community residents.

Upon review of the Application and the record of this proceeding, including the FEIR, we find that the Proposed Crossing aligns with the Commission's ESJ Action Plan.

#### **4.4. Request for Thirty-Six Months to Construct**

RSD recommends an authorization period of three years to complete construction of the Proposed Crossing. The Commission finds this timeframe reasonable. Accordingly, the Commission approves construction of the Proposed Crossing within thirty-six months of the date of issuance of a Decision in this proceeding.

#### **5. Conclusion**

Application (A.) 20-08-013 complies with the applicable Commission's Rules and GOs for seeking authority to construct the Proposed Crossing. Accordingly, we authorize the Applicant to construct the Proposed Crossing, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

#### **6. 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 Pub. Util. Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

#### **7. Assignment of Proceeding**

Genevieve Shiroma is the assigned Commissioner and Joanna Gubman is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. On August 20, 2020, Watsonville filed the Application to construct the Proposed Crossing (a new at-grade crossing for pedestrians and bicycles on the main track line of SCCRTC rail, at MP 2.66 in Watsonville.)
2. On November 3, 2020, the Applicant filed supplemental information in compliance with Rules 3.7(c)(2) and 3.7(f).
3. The Proposed Crossing will provide pedestrian and bicycle access from the City of Watsonville to the 32-mile long Santa Cruz Branch Line rail trail and is a subproject of the Modified Segment 18 Project, which is part of the region's Trail Network Master Plan.
4. RSD reviewed the application, conducted a site visit, and filed a response to the Application. RSD also determined that there were no safety or other concerns during this inspection and that the Application complied with the Commission's Rules and GOs, except for Rules 3.7(c)(2) and 3.7(f).
5. The Application is not contested.
6. The Applicant prepared the FEIR for the Trail Network Master Plan, of which the Proposed Crossing is a part, considered the potential environmental impacts; and found that all impacts at the Proposed Crossing could be mitigated and minimized to be considered less than significant under CEQA.
7. All significant impacts identified and described in the FEIR that relate to the Proposed Crossing will be mitigated to be less than significant under CEQA.
8. The Commission has reviewed and considered the FEIR as it relates to the Proposed Crossing.
9. The Proposed Crossing is located in and adjacent to ESJ communities, and the Proposed Crossing will provide broad health, safety, environmental and economic benefits to those ESJ communities.

### **Conclusions of Law**

1. The Applicant should be authorized to construct the Proposed Crossing (a new at-grade pedestrian-rail crossing at MP 2.66 of the SCCRTC rail, operated by Progressive Rail, in Watsonville, California).

2. The Application, as supplemented by the Applicant's filing on November 3, 2020, complies with the Commission's Rule 3.7 as well as GOs 26-D, 72-B, and 75-D.

3. The Proposed Crossings is consistent with the Commission's ESJ Action Plan.

4. The FEIR, including Addendum 3, as it relates to the Proposed Crossing, is adequate for the Commission's decision-making processes.

5. The Application complies with CEQA.

6. Upon issuance of this decision and in compliance with 14 Cal. Code Regs. §§ 15096(h) and 15096(i), the Commission's Energy Division should file a Notice of Determination with the CEQA clearinghouse certifying that the Commission considered the environmental documents related to the Proposed Crossing.

7. A thirty-six month, or three-year, authorization to complete the Proposed Crossing is reasonable and should be granted.

8. The approval and construction authorization granted in this decision should expire if not exercised within thirty-six months of the issuance of this decision, unless the Applicant seeks an extension of time or if the conditions adopted in the Ordering Paragraphs are not satisfied.

9. The proceeding should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. The City of Watsonville is authorized to construct a new at-grade pedestrian-rail crossing at milepost 2.66 of the Santa Cruz County Regional Transportation Commission rail, operated by Progressive Rail, in the City of Watsonville.
2. The at-grade pedestrian-rail crossing authorized in this decision shall be identified by California Public Utilities Commission Crossing Number 137A-2.66-D.
3. The at-grade pedestrian-rail crossing authorized in this decision shall have the configurations described and specified in Application 20-08-013 and in the City of Watsonville's November 3, 2020 supplemental filings.
4. The City of Watsonville shall comply with all applicable rules, including California Public Utilities Commission General Orders, California Manual on Uniform Traffic Control Devices, and the Americans with Disabilities Act.
5. The City of Watsonville shall notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Rail Safety Division at least 30 days prior to the opening of the crossing. Notification should be made by e-mail to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).
6. Within 30 days after completion of the work authorized by this Decision, the City of Watsonville shall notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Rail Safety Division that the authorized work is completed by submitting a California Public Utilities Commission Standard Form G, Report of Completed Changes at Rail Crossings, for the completion of the authorized work. Form G requirements and forms can be obtained on the California Public Utilities Commission website at

[www.cpuc.ca.gov/crossings](http://www.cpuc.ca.gov/crossings). The completed report must be submitted via e-mail to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

7. This authorization shall expire if not exercised within three years of the issuance of this decision unless time is extended or if the above conditions are not satisfied. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

8. A request for extension of the three-year authorization must be submitted to the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Rail Safety Division at least 30 days before the expiration of that period. A copy of the extension request shall be sent to all interested parties.

9. Application 20-08-013 is closed.

This order is effective today.

Dated April 22, 2021, at San Francisco, California

MARYBEL BATJER

President

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE HOUCK

Commissioners